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Supreme Court, U.S.
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In The

Supreme Court of the United States

W.R. HUFF ASSET MANAGEMENT CO., LLC,
Petitioner,

v.

DELOITTE & TOUCHE LLP, ET AL.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

MARC B. KRAMER
150 JOHN F. KENNEDY PARKWAY
SUITE 100
SHORT HILLS, NJ 07078
(973) 847-5924
(973) 847-6005 FAX
marcbkramer@cs.com

Robert J. Kipnees
Counsel of Record
Lawrence M. Rolnick
THOMAS E. REDBURN, JR.
LOWENSTEIN SANDLER P.C.
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068
(973) 597-2500
(973) 597-2400 FAX
rkipnees@lowenstein.com
lrolnick@lowenstein.com
tredburn@lowenstein.com
Counsel for Petitioner

March 3, 2009

Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

QUESTION PRESENTED

Does an investment adviser who, pursuant to investment management contracts that gave it discretionary authority over its clients' investments, purchased securities on behalf of those clients in reliance on the defendants' false and misleading statements, and who thereby was deprived of its statutory right to receive truthful information from the defendants under the federal securities laws and was prevented from performing the services for which the clients had hired it, have standing under Article III of the Constitution to sue the defendants under the federal securities laws in a representative capacity as investment adviser and attorney-in-fact on behalf of its investor clients to recover damages for the clients' economic losses where the investment adviser has a substantial interest in the outcome of the case and secured powers of attorney from the clients authorizing it to sue on their behalf?

LIST OF PARTIES

The parties to this proceeding in the Court of Appeals are as follows:

Plaintiff-Appellee: W.R. Huff Asset Management Co., L.L.C., who is the petitioner in this Court.

Defendants-Appellants: Deloitte & Touche LLP; Credit Suisse Securities (USA) LLC; Credit Suisse, New York Branch; The Royal Bank of Scotland plc; The Bank of Nova Scotia; Toronto Dominion (Texas), LLC, formerly known as Toronto Dominion (Texas), Inc.; Mizuho International, plc; ABN AMRO Inc.; Banc of America, N.A.; Fleet Securities, Inc. (n/k/a Bank of America, N.A.); Banc of America Securities LLC; Barclays Capital Inc.; Barclays Bank PLC; BNY Capital Markets, Inc.; The Bank of New York Company, Inc.; CIBC World Markets Corp.; CIBC, Inc.; Citibank, N.A.; Citigroup Inc.; Citicorp USA, Inc.; Citigroup Global Markets, Inc.; Salomon Smith Barney Inc. (n/k/a Citigroup Global Markets, Inc.); Calyon Securities (USA), Inc. (f/k/a Credit Lyonnais Securities (USA) Inc.); Calyon New York Branch (successor by operation of law to Credit Lyonnais New York Branch); Deutsche Bank, Alex.Brown, Inc.; Deutsche Bank AG; BMO Capital Markets Corp. (f/k/a Harris Nesbitt Corp., f/k/a BMO Nesbitt Burns Corp.); J.P. Morgan Securities Inc.; JPMorgan Chase & Co.; Morgan Stanley & Co. Incorporated; Scotia Capital (USA) Inc.; Cowen & Company, LLC (f/k/a SG Cowen Securities Corporation); Societe Generale; SunTrust Capital Markets, Inc.; SunTrust Bank; TD Securities (USA) Inc.; The Bank of Nova Scotia; Wachovia Bank, N.A.; Bank of Montreal; and Buchanan Ingersoll & Rooney

Professional Corporation. These parties are the respondents in this Court.

CORPORATE DISCLOSURE STATEMENT

Petitioner W.R. Huff Asset Management Co., L.L.C. is a limited liability company, which has no corporate parent and does not issue stock. No publicly held company owns more that 10% of petitioner's membership interests.

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PETITION

Petitioner W.R. Huff Asset Management Co., L.L.C. ("Huff" or "Petitioner") respectfully petitions the Court for a writ of certiorari to review the opinion and judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The Second Circuit's opinion (App. A, *infra*) is reported at 549 F.3d 100. The Memorandum and Order, dated August 29, 2005 (App. C) of the United States District Court for the Southern District of New York (the "District Court"), which, *inter alia*, denied the respondents' motion to dismiss for lack of standing, is unofficially reported at 2005 WL 2087811. The District Court's Memorandum and Order, dated October 19, 2005 (App. B) which adhered to that decision on reconsideration, is unofficially reported at 2005 WL 2667201, and its Memorandum and Order, dated March 15, 2006 (App. D) which certified its prior orders for interlocutory appeal pursuant to 28 U.S.C. § 1292(b), is unofficially reported at 2006 WL 708303. Finally, the Second Circuit's Order granting the respondents' motion for leave file an interlocutory appeal is unreported. (App. E.)

STATEMENT OF JURISDICTION

The Second Circuit's opinion was issued on December 3, 2008, and on that same date the Court of Appeals entered judgment reversing the District Court's decision and remanding to that court for further proceedings. (App. A, F.) Having been filed within 90 days of the entry of judgment by the Court

of Appeals, the Petition is timely under 28 U.S.C. § 2101(c) and Supreme Court Rule 13.1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. art. III, § 2, cl. 1, *amended by* U.S. Const. amend. XI:

> The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of another State; – between Citizens of different States; – between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Section 11(a) of the Securities Act of 1933, 15 U.S.C. § 77k:

> (a) *Persons Possessing Cause of Action; Persons Liable.* In case any part of the registration statement, when such part became effective, contained an untrue statement of material fact or omitted to state a material fact required to be

stated therein or necessary to make the statements therein not misleading, any person acquiring such security (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may, either at law or in equity, in any court of competent jurisdiction, sue—

(1) every person who signed the registration statement;

(2) every person who was a director of (or person performing similar functions) or partner in the issuer at the time of the filing of the part of the registration statement with respect to which his liability is asserted;

(3) every person who, with his consent, is named in the registration statement as being or about to become a director, person performing similar functions, or partner;

(4) every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, who has with his consent been named as having prepared or certified any report or valuation which is used in connection with the registration statement, with respect to the statement in such registration statement, report, or valuation, which purports to have been prepared or certified by him;

(5) every underwriter with respect to such security.

Section 12(a)(2) of the Securities Act of 1933, 15 U.S.C. § 77l:

(a) *In General*. Any person who–

(2) offers or sells a security (whether or not exempted by the provisions of section 3, other than paragraphs (2) and (14) of subsection (a) thereof), by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by means of a prospectus or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission shall be liable, subject to subsection (b) of this section, to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j:

It shall be unlawful for any person, directly or indirectly, by the use of any means or

instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange–

(b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, or any securities-based swap agreement (as defined in Section 206B of the Gramm-Leach-Bliley Act), any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

Section 18(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78r:

(a) *Persons Liable; Persons Entitled to Recover; Defense of Good Faith; Suit at Law or in Equity; Costs; Etc.* Any person who shall make or cause to be made any statement in any application, report, or document filed pursuant to this chapter or any rule or regulation thereunder or any undertaking contained in a registration statement as provided in subsection (d) of section 15 of this title, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who, in reliance upon such statement, shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance,

unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant.

Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act, 15 U.S.C. § 78u-4(a)(3)(B):

(B) *Appointment of Lead Plaintiff.*

(i) *In General.* Not later than 90 days after the date on which a notice is published under subparagraph (A)(i), the court shall consider any motion made by a purported class member in response to the notice, including any motion by a class member who is not individually named as a plaintiff in the complaint or complaints, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this paragraph referred to as the "most adequate plaintiff") in accordance with this subparagraph.

(ii) *Consolidated Actions.* If more than one action on behalf of a class asserting substantially the same claim or claims arising

under this chapter has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by clause (i) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

(iii) *Rebuttable Presumption.*

(I) *In General.* Subject to subclause (II), for purposes of clause (i), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that–

(aa) has either filed the complaint or made a motion in response to a notice under subparagraph (A)(i);

(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

(II) *Rebuttal Evidence.* The presumption described in subclause (I) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff–

(aa) will not fairly and adequately protect the interests of the class; or

(bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

(iv) *Discovery.* For purposes of this subparagraph, discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

(v) *Selection of Lead Counsel.* The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.

(vi) *Restrictions on Professional Plaintiffs.* Except as the court may otherwise permit, consistent with the purposes of this section, a person may be a lead plaintiff, or an officer, director or fiduciary of a lead plaintiff, in no more than 5 securities class actions brought as plaintiff class actions pursuant to the Federal Rules of Civil Procedure during any 3-year period.

STATEMENT OF THE CASE

1. Huff's Relationship With Its Clients

This is an action for securities fraud. Huff is an investment manager for corporate bond investors, including state and municipal pension funds, charitable foundations, university endowments and other institutional investors, who rely on the proceeds from the investments that Huff manages to fund retirement benefits, charitable work and educational activities. Pursuant to investment management contracts entered into with its clients, Huff possesses sole discretion to purchase and sell bonds for them as it deems appropriate to maximize their investment returns. (App. G at 119a-120a.) Even though the clients at all times own the securities, Huff decides when to buy and sell them. (*Id.*)

Such arrangements are common in the financial industry. Institutional investors hire professionals like Huff because they believe Huff possesses greater skill and expertise in managing corporate bond investment portfolios than they do. They rely on Huff as a trusted fiduciary to make investment decisions on their behalf and in furtherance of their interests. Indeed, the clients' reliance on Huff and its expertise extends beyond just buying and selling bonds to also include discerning the best ways to maximize the clients' returns when the bonds become distressed. (*See id.* at 120a-121a.) Thus, Huff's decision-making authority under its investment management contracts encompasses the power to exercise its clients' rights as bondholders in bankruptcy, such as deciding whether to vote to approve a proposed plan of reorganization, and also the power, as in this case, to commence

litigation on the clients' behalf to recover losses they incurred as a result of a third party's wrongdoing in connection with investments made by Huff. (*Id.*)

The investment management contracts incentivize Huff, in the exercise of its fiduciary obligations, to attempt to maximize the returns realized on each client's investment portfolio. In exchange for providing its highly-skilled services, Huff receives management fees that increase when the portfolio earns returns above negotiated levels and decrease when it fails to achieve agreed-upon returns. Moreover, clients measure Huff's performance measured against established financial industry benchmarks. If an investment manager consistently falls short performs of these benchmarks, the institutional investor clients (who themselves owe fiduciary duties to their beneficiaries) may terminate their existing investment management contracts and retain a new investment manager. Given the highly competitive nature of the investment management business, Huff's ability to attract and retain clients depends on its ability to exceed these benchmarks and generate returns for its clients in excess of the market.

One of the keys to the success of Huff's business is its ability to rely on truthful information about the securities that it purchases and sells. Huff is a research intensive investment manager. Before it decides to buy a particular bond for a client, Huff's analysts scour and scrutinize all publicly-available information about the issuer, including its public filings with the Securities and Exchange Commission ("SEC"), prospectuses, press releases and media reports. (*Id.* at 120a.) When a corporate issuer and its professionals release false information into the

marketplace that Huff reviews and relies upon to purchase the issuer's securities -- securities that Huff would not have purchased if it had been provided the truthful information to which the federal securities laws entitle it -- Huff's ability to perform its investment management services as fiduciary to its clients is severely disrupted. In such circumstances, Huff cannot bring its expertise to bear for the benefit of its clients, and is misled into buying securities that it is not in the clients' best interests to buy. When the truth is ultimately revealed and the issuer goes into financial distress, thereby rendering the bonds worthless or nearly so, both Huff and its clients are harmed. The clients obviously suffer direct economic losses as a result of the collapse of the bonds' value. But Huff gets hurt too: it must now face the ramifications of its failure to meet its clients' expectations, which could range anywhere from being on the receiving end of a client's pointed expression of displeasure with the investment's performance to the loss of the client's investment management business altogether. In short, even though that injury may not immediately translate into dollars and cents, Huff's failure as an investment management professional to receive truthful information from market participants who are legally obligated to provide it results in real, concrete injury to Huff. That is what happened in this case.

2. *Background Of The Litigation And Huff's Injury-In-Fact*

Over the course of several years, Huff purchased bonds issued by Adelphia Communications Corporation and one if its subsidiaries (collectively "Adelphia") on behalf of over 100 of its clients

(collectively, the "Beneficial Owners"), including some of the largest state and municipal pension funds in the country. Huff purchased some of these debt securities directly from public offerings by Adelphia, and bought others on the secondary market. (*Id.* at 120a, 152a-155a.) Huff did not purchase any Adelphia securities for its own account. Before making these purchases for the Beneficial Owners, Huff reviewed the documents Adelphia filed with the SEC and read and relied upon Adelphia's various registration statements, 10-Ks, 10-Qs and other public filings. (*Id.* at 52a, 120a.) The problem was those materials were false. In March 2002, it was revealed, among other things, that Adelphia's financial statements concealed billions of dollars of so-called "co-borrowing" debt and were riddled with gimmicks and falsehoods designed to artificially boost Adelphia's earnings. (*Id.* at 52a-84a.) In the wake of these disclosures, Adelphia entered a death spiral that culminated in its filing for Chapter 11 bankruptcy relief in June 2002. (*Id.*) The value of the bonds it had issued collapsed. (*Id.* at 84a.)

Huff's clients suffered hundreds of millions of dollars in losses. (*Id.* at 121a.) These losses resulted directly from the dissemination of false information about Adelphia's financial condition to the marketplace, and concealment of the truth, by the respondents in this case -- including Adelphia's auditor, Deloitte & Touche, the investment banks that underwrote its securities offerings, the commercial banks that structured the co-borrowing facilities, and its longstanding corporate counsel, Buchanan Ingersoll (collectively, "Respondents"). Huff made investment decisions for the Beneficial Owners in reliance on this false information, and as a result put its clients in securities it never would have purchased had it been

given the truthful information required by the securities laws. The truth did eventually come out, and when it did, Adelphia's investors -- including the Beneficial Owners -- were left holding the bag. As a direct consequence of Respondents' failure to provide truthful information to Huff in violation of the securities laws, both Huff and the Beneficial Owners were harmed in the following ways: (i) Huff was prevented from performing the investment management services that the Beneficial Owners had hired it to do, (ii) the Beneficial Owners collectively suffered losses in nine figures, and (iii) Huff was left with a large of number of extremely unhappy clients.

Naturally, the vast majority of the Beneficial Owners continued to look to Huff to manage their now-distressed Adelphia investments. Believing that the losses were precipitated by violations of the federal securities laws, Huff decided that consistent with its fiduciary duty it would commence a recovery action on the bonds. In order to confirm its authorization to commence suit, Huff went to each Beneficial Owner who had suffered losses as a result of Huff's investment in Adelphia bonds and secured powers of attorney authorizing it to commence suit on their behalf. (*Id*. at 121a.) Most of them executed such a power. Many lacked the resources and experience to mount a massive securities litigation and believed that Huff, as the investor and purchaser of the bonds, was vastly more qualified to understand and prosecute claims surrounding the investment. (*Id*. at 121a-122a.) Besides, it was Huff -- not the Beneficial Owners -- who read, reviewed and actually relied on Adelphia's SEC filings. Huff made the decision to invest in Adelphia securities -- without any input, at any time, from the Beneficial Owners. (*Id*. at 120a.)

And it was Huff who was duped by the outright falsehoods and omissions of highly material information which permeated Adelphia's public filings. As a result, as the investment manager with a fiduciary duty to attempt to maximize returns -- and financial incentives to do so -- the Beneficial Owners believed that Huff would aggressively seek recovery of the losses on the investments it had made. (*Id.* at 120a-122a.)

Huff filed its first Complaint in the United States District Court for the Western District of New York on June 7, 2002. Following the transfer of all Adelphia-related litigation to the District Court by the Judicial Panel on Multidistrict Litigation, Huff filed a Second Amended Complaint ("SAC") in December 2003. (App. G.) The SAC asserts claims against Respondents for violating numerous provisions of the Securities Act of 1933, 15 U.S.C. §§ 77a *et seq.*, and the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a *et seq.* (*Id.* at 333a-379a.) The District Court's subject matter jurisdiction was invoked under 28 U.S.C. §§ 1331 and 1337, as well as the relevant jurisdictional provisions of the securities laws. *See* 15 U.S.C. § 77v; 15 U.S.C. § 78aa. Because Huff commenced the lawsuit as a fiduciary empowered by powers of attorney to recover the losses that resulted from investments made in the exercise of its fiduciary duty, the plaintiff in the caption of the SAC is identified as:

> W.R. HUFF ASSET MANAGEMENT CO., L.L.C., as investment adviser and attorney-in-fact on behalf of certain purchasers of high yield and subordinated convertible debt securities issued by Adelphia Communications Corporation and

> Arahova Communications Inc. f/k/a Century Communications Corporation.

(App. G at 49a.) Huff thus brought suit in its representative capacity on behalf of the Beneficial Owners as (1) the investment adviser who in the exercise of its fiduciary duty actually purchased the Adelphia securities for the Beneficial Owners, and (2) the "attorney-in-fact" for the Beneficial Owners authorized to sue pursuant to powers of attorney.[1]

Respondents moved in the District Court to dismiss the SAC, arguing, *inter alia*, that Huff lacked standing to sue under Article III of the Constitution and also lacked statutory standing. They further argued that Huff failed both to prosecute the action in the name of the real party in interest and to identify all parties in the caption as required by Rules 17(a) and 10, respectively, of the Federal Rules of Civil Procedure. Huff opposed the motion. On the issue of constitutional standing, Huff relied on a body of precedent holding that an investment manager had standing to sue on its clients' behalf so long as it possessed both discretionary power over the clients'

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[1] Huff did not join the Beneficial Owners as named plaintiffs in the caption or specifically identify them in the body of the complaint. However, during the proceedings below, Huff made it clear that (i) the claims it is prosecuting in its representative capacity belong to the Beneficial Owners, (ii) that it is acting pursuant to written powers of attorney and (iii) that the Beneficial Owners' names would be disclosed immediately in discovery subject to the terms of an appropriate protective order. Even though no discovery has occurred to date, in the course of further proceedings in the District Court, Huff did disclose all of the names of the Beneficial Owners to Respondents in 2006.

investments and powers of attorney authorizing it to bring suit. *See, e.g., EZRA Charitable Trust v. Rent-Way, Inc.*, 136 F. Supp. 2d 435, 441-43 (W.D. Pa. 2001) (holding that an investment adviser who purchased securities on behalf of its clients had standing to sue under the federal securities laws even though that adviser suffered no out-of-pocket loss because the investment adviser's "unrestricted decision-making authority" over its clients' investments made it "a 'purchaser' under the federal securities laws with standing to sue in its own name"); *Roth v. Knight Trading Group, Inc.*, 228 F. Supp. 2d 524, 529 (D.N.J. 2002) (same); *Monetary Mgmt. Group of St. Louis, Inc. v. Kidder, Peabody & Co.*, 604 F. Supp. 764, 766-67 (E.D. Mo. 1985) (holding that plaintiff Monetary Management, an investment adviser which had purchased notes for its client, was a purchaser under Section 12 of the Securities Act, and thus had standing to sue on behalf of its client). Huff argued that, as implicitly recognized in these cases, Respondents' wrongful acts in depriving Huff of the truthful information to which it was entitled as a "purchaser" under the federal securities laws constituted "injury-in-fact" sufficient to satisfy Article III. *See In re Rent-Way Sec. Litig.*, 218 F.R.D. 101, 109 (W.D. Pa. 2003) ("As decision-maker for its clients vis-a-vis the purchase and management of securities, [the investment adviser] had an interest ***in its own right*** to receive full and fair disclosures concerning the true value of Rent-Way's stock.") (emphasis added).

3. *The Decisions Below*

The District Court denied Respondents' motion. With respect to the issue of constitutional standing, the District Court noted that another judge in the

Southern District of New York had come to the same conclusion as the court in *EZRA* that investment managers which possess discretionary authority over their clients' investments and powers of attorney from those clients have standing to bring suit on their behalf to recover their losses under the federal securities laws. (App. C at 29a-31a (citing *Weinberg v. Atlas Worldwide Holdings, Inc.*, 216 F.R.D. 248 (S.D.N.Y. 2003).) Indeed, the District Court cited a virtually unbroken line of cases by federal district courts all across the country that agreed with this result.[2] (*Id.* at 29a-30a.) Accordingly, the District Court held that, as the attorney-in-fact and investment adviser for the Beneficial Owners with full decision-making authority over their investments, Huff had standing to sue as a "purchaser" under the federal securities laws and also had constitutional standing. (*Id.* at 29a-31a.) The District Court also rejected Respondents' arguments under Rules 10 and 17(a) of the Federal Rules of Civil Procedure. (*Id.* at 32a-33a.)

Respondents moved for reconsideration solely on the question of constitutional standing. The District Court granted reconsideration, but adhered to its original ruling that Huff has standing to prosecute this action. (App. B at 22a-23a.) Respondents argued that the District Court's original decision was contrary to Second Circuit precedent which purportedly held that "standing alone, a power of attorney [as opposed to an assignment of ownership] does not enable the grantee to bring suit in his own name." (*Id.* at 23a (quoting *Advanced Magnetics, Inc. v. Bayfront Partners, Inc.*,

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[2] These cases are discussed in Part I.A. of the Reasons for Allowance of the Writ, *infra*.

106 F.3d 11, 17-18 (2d Cir. 1997)).) However, the District Court distinguished *Advanced Magnetics* on the grounds that "in addition to the powers of attorney Huff was given by its clients, Huff was also the clients' investment advisor with unrestricted decision making power over the clients' investments, including those in Adelphia securities." (*Id.*) Moreover, the District Court held, the "reasoning of *Weinberg* applies with equal force to standing under the securities laws and standing under Article III."

The District Court subsequently certified its ruling that Huff has constitutional standing for immediate interlocutory appeal under 28 U.S.C. § 1292(b). (App. D.) The Court of Appeals granted Respondents' petition for leave to appeal by Order entered August 24, 2006. (App. E.)

Determining that Huff lacked standing under Article III of the Constitution, the Second Circuit reversed the District Court's decision and remanded the case back to that Court for further proceedings. (App. A at 21a.) According to the Court of Appeals, Huff lacked constitutional standing because the Beneficial Owners had not transferred title to their claims to Huff by way of a valid assignment. (*Id.* at 17a.) In reaching this conclusion, the Second Circuit primarily relied on two precedents: (1) its own prior decision in *Advanced Magnetics*, which it construed as holding that "a company that possessed powers of attorney from aggrieved shareholders, but did not have a valid assignment of the shareholders' claims, lacked constitutional standing to sue on behalf of the shareholders"; and (2) this Court's intervening 2008 decision in *Sprint Commc'ns Co., L.P. v. APCC Servs., Inc.*, 128 S.Ct. 2531 (2008), which it interpreted as

"implicitly support[ing] the holding of *Advanced Magnetics* that a mere power-of-attorney ... does not confer standing to sue." (App. A at 8a, 16a.) It rejected the argument that *Weinberg* and its progeny provided the proper test for assessing Huff's constitutional standing, and further determined that Huff did not qualify for any prudential exception to the "injury-in-fact" requirement for Article III standing. (*Id.* at 10a-11a, 18a-19a.) Finally, although it acknowledged Huff's argument that it suffered informational injury that impaired its ability to perform as an investment adviser by virtue of Respondents' failure to provide the truthful information which it had a right to receive under the federal securities laws, the Court of Appeals refused to decide whether this injury was sufficient for standing under Article III. The Court based this refusal on its determination that (i) Huff failed to plead this injury in its complaint, and (ii) the "remedies sought in the complaint -- principally money damages associated with the losses suffered by Huff's clients -- would not redress" that injury. (Id. at 19a-20a.) Although Huff had requested leave to amend the SAC to substitute the Beneficial Owners as plaintiffs pursuant to Rule 17(a) if it was determined that Huff lacked standing, the Second Circuit did not address that issue.

REASONS FOR ALLOWANCE OF THE WRIT

As this Court's decisions establish, the "irreducible minimum" of Article III standing requires a plaintiff to show (1) an injury-in-fact, (2) a causal relationship between the injury and the challenged conduct, and (3) a likelihood that a favorable judicial decision will redress the plaintiff's injury. *United Food and Commercial Workers Union Local 751 v. Brown Group,*

Inc., 517 U.S. 544, 551 (1996). Article III requires that the "plaintiff allege that as a result of the defendant's actions he has suffered a 'distinct and palpable injury[.]'" *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 372 (1982) (quoting *Warth v. Seldin*, 422 U.S. 490, 501 (1975)). The purpose of the "injury-in-fact" requirement is to "'assure that concrete adverseness which sharpens the presentation of issues,'" *Duke Power Co. v. Carolina Envtl. Study Group*, 438 U.S. 59, 72 (1978) (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)), and to ensure that a plaintiff invoking the Article III jurisdiction of the federal courts has a "sufficiently concrete interest in the outcome of [his or her] suit to make it a case or controversy" within that jurisdiction. *Singleton v. Wulff*, 428 U.S. 106, 112 (1976); *see also Sprint Commc'ns*, 128 S.Ct. at 2543 (noting that three specific requirements for constitutional standing and the more general "personal stake" requirement "are flip sides of the same coin" that are designed to assure the presence of concrete adverseness). In light of this purpose, "[i]njury-in-fact is not Mount Everest." *Danvers Motor Co., Inc. v. Ford Motor Co.*, 432 F.3d 286, 294 (3d Cir. 2005).

This Court should review the Second Circuit's resolution of the standing issue in this case. The Court of Appeals' determination that Huff, as investment adviser and attorney-in-fact for its clients, did not suffer a cognizable injury-in-fact as a result of the Respondents' fraud overturns nearly ten years of district court decisions holding that investment advisers have standing to sue on their clients' behalf under circumstances identical to those here. In addition, the Second Circuit's decision resolves an important question of constitutional law in a way that conflicts with this Court's prior decisions recognizing

the sufficiency of informational injuries to confer standing under Article III. Finally, the Court of Appeals gave an unduly expansive reading of this Court's recent decision in *Sprint Commc'ns* that conflicts with the actual holding and reasoning of that decision. Particularly in light of the fact that the question of investment adviser standing is unlikely for procedural reasons to receive attention from other federal appellate courts in the foreseeable future, this Court should grant the writ.

I. BECAUSE THE SECOND CIRCUIT'S DECISION CONFLICTS WITH A CONSISTENT LINE OF AUTHORITY RECOGNIZING THAT INVESTMENT MANAGERS HAVE CONSTITUTIONAL STANDING TO SUE ON BEHALF OF THEIR CLIENTS UNDER THE FEDERAL SECURITIES LAWS WHERE THE MANAGERS HAVE DISCRETIONARY AUTHORITY OVER THEIR CLIENTS' ACCOUNTS AND POWERS OF ATTORNEY AUTHORIZING THEM TO BRING SUIT, REVIEW BY THIS COURT TO DEFINITIVELY RESOLVE THE ISSUE IS WARRANTED.

A. Prior To The Court Of Appeals' Decision, The Overwhelming Weight Of Authority In The District Courts Supported Standing For Investment Managers In Cases Such As The One At Bar.

Over the past nine years, federal courts all across the country repeatedly held that investment advisers have standing to sue on their clients' behalf where they (i) possessed the exclusive power to invest in the

securities at issue and (ii) obtained powers of attorney from their clients authorizing them to bring suit to recover the losses resulting from those investments. *See Weinberg v. Atlas Worldwide Holding, Inc.*, 216 F.R.D. 248, 255 (S.D.N.Y. 2003) (holding that where an investment adviser has authority to purchase stock on the client's behalf and is the attorney-in-fact for the client, "the investment advisor is considered the 'purchaser' under the federal securities laws with standing to sue in its own name"); *EZRA Charitable Trust v. Rent-Way, Inc.*, 136 F. Supp. 2d 435, 441-43 (W.D. Pa. 2001) (same). *Accord Kaplan v. Gelfond*, 240 F.R.D. 88, 95 (S.D.N.Y. 2007) ("Courts have found standing for an investment advisor if it is authorized to act as attorney-in-fact with unrestricted decision making authority for the funds at issue. In such instances, courts have considered the investment advisor to be the 'purchaser' under federal securities laws, with standing to sue in its own name."); *Olsen v. N.Y. Community Bancorp, Inc.*, 233 F.R.D. 101, 108 (E.D.N.Y. 2005) ("[T]he Court finds that Metzler Investment has demonstrated that it has complete investment authority over its trades and is agent and attorney-in-fact with full power and authority to act in connection with its investments. Thus, the Court finds that Metzler Investment does have standing to prosecute its Exchange Act claims asserted here."); *In re eSpeed, Inc. Sec. Litig.*, 232 F.R.D. 95, 98, 98 n.13 (S.D.N.Y. 2005) (holding that in order for an investment adviser to have standing "the advisor must be the attorney in fact for his clients [with] both unrestricted decision-making authority and the specific right to recover on behalf of his clients"), *In re DaimlerChrysler AG Sec. Litig.*, 216 F.R.D. 291, 298-99 (D. Del. 2003) (same); *Roth v. Knight Trading Group, Inc.*, 228 F. Supp. 2d 524, 529 (D.N.J. 2002) (same); *In*

re Able Labs. Sec. Litig., 425 F. Supp. 2d 562, 572 (D.N.J. 2006) (same); *Newman v. Eagle Building Tech.*, 209 F.R.D. 499, 505 (S.D. Fla. 2002); *In re The Goodyear Tire & Rubber Co. Sec. Litig.*, No. 5:03 CV 2166, 2004 WL 3314943, at *4 (N.D. Ohio May 12, 2004) (following *Weinberg* line); *In re Molson Coors Brewing Co. Sec. Litig.*, 233 F.R.D. 147, 152 (D. Del. 2005); *In re Rent-Way Sec. Litig.*, 218 F.R.D. 101, 106-109 (W.D. Pa. 2003); *Monetary Mgmt. Group of St. Louis v. Kidder, Peabody & Co.,* 604 F. Supp. 764, 766-67 (E.D. Mo. 1985); *Lemanik, S.A. v. McKinley Allsopp, Inc.*, 125 F.R.D. 602, 607 (S.D.N.Y. 1989); *Odette v. Shearson, Hammill & Co., Inc.*, 394 F. Supp. 946, 959 (S.D.N.Y. 1975); *Am. Bank & Trust Co. v. Barad Shaff Sec. Corp.*, 335 F. Supp. 1276, 1280-81 (S.D.N.Y. 1972).[3] These courts determined that standing existed even where the investment adviser had not suffered a direct pecuniary loss as a result of the securities violation and regardless of whether the clients assigned their claims to the adviser.

The Court of Appeals repudiated this virtually unbroken line of authority on the grounds that these

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[3] *Compare In re Tyco Int'l Ltd. Multidistrict Litig.*, 236 F.R.D. 62, 73 (D.N.H. 2006) (denying standing to investment adviser who did "not even attempt to satisfy the Constitution's injury in fact requirement"); *Smith v. Suprema Specialties, Inc.*, 206 F. Supp. 2d 627 (D.N.J. 2002) (asset manager failed to show it was attorney-in-fact authorized to bring suit and therefore lacked standing); *In re Turkcell Illetsim Hizmetler, A.S. Sec. Litig.*, 209 F.R.D. 353 (S.D.N.Y. 2002) (same); *Competitive Assocs., Inc. v. Int'l Health Scis., Inc.*, No. Civ. A. 72-1848, 1972 WL 350, at *2-3 (S.D.N.Y. Oct. 10, 1972) (no showing that the investment adviser exercised discretionary authority over its clients' investments); *Fin. Programs, Inc. v. Foss Fin., Inc.*, No. 72-848, 1973 WL 458, at *2 (D. Or. June 6, 1973) (same).

decisions purportedly concerned only the question of whether investment advisers have statutory standing as "purchasers" under the federal securities laws. (App. A at 10a-11a.) In doing so, it misperceived their underlying reasoning. Many -- although not all -- of these decisions arose in the context of selecting a lead plaintiff to manage a consolidated securities class action under the Private Securities Litigation Reform Act ("PSLRA"). *See* 15 U.S.C. § 78u-4(a)(3)(B) (establishing detailed procedures to govern lead plaintiff selection in private securities class actions). As the District Court correctly recognized (App. B at 23a) because a proposed lead plaintiff must have Article III standing in order to represent the class, the district courts in *EZRA* and its progeny had to resolve the constitutional question in order to appoint the investment advisers as lead plaintiffs. *See O'Shea v. Littleton*, 414 U.S. 488, 494 (1974) (holding that "if none of the named plaintiffs purporting to represent a class establishes the requisite of a case or controversy with the defendants, none may seek relief on behalf of himself or any other member of the class"). The notion, implicitly accepted by the Court of Appeals, that the district courts in these cases would allow investment advisers to act as lead plaintiffs -- even though they lacked a sufficient interest to ensure that an adversarial case or controversy existed -- is highly implausible. As the District Court reasoned, a "lead plaintiff, plainly, must have standing, and that is why [the court] addressed the standing issue in *Weinberg*." (App. B at 23a.)

The Court of Appeals failed to understand that the finding in *EZRA* and its progeny that the investment advisers had statutory standing as "purchasers" under the securities laws also served as the basis for those

advisers' standing under Article III of the Constitution. Because the investment advisers possessed discretionary authority over the clients' investments, they were the persons who made the decision to purchase the securities. In doing so, the advisers (and not the clients) reviewed and relied upon the defendants' allegedly fraudulent statements. That made the investment advisers "purchasers" of the securities within the meaning of the federal securities laws, and thereby conferred on them a statutory right to receive truthful information about those securities. *See, e.g., Weinberg*, 216 F.R.D. at 255 (holding that "the investment advisor is considered the 'purchaser' under the federal securities laws with standing to sue in its own name"); *In re Rent-Way Sec. Litig.*, 218 F.R.D. at 109 ("As decision-maker for its clients vis-a-vis the purchase and management of securities, [the investment adviser] had an interest ***in its own right*** to receive full and fair disclosures concerning the true value of Rent-Way's stock.") (emphasis added). When a defendant makes material misrepresentations that induce the investment manager to buy securities, thereby depriving the investment manager of the truthful information to which he is entitled by statute as a securities purchaser, the manager suffers a constitutionally-cognizable "injury-in-fact." In such circumstances, the investment manager has been duped into making an investment that has produced an enormous loss for its clients -- a very harmful result (to say the least) for the investment manager in a profession where investment returns are the linchpin of economic success.

EZRA and its progeny stand for the proposition that depriving an investment adviser of the truthful information to which he is entitled as a purchaser

under the federal securities laws constitutes an injury-in-fact sufficient to satisfy the Article III threshold. Of course, the failure to provide truthful information caused harm not only to the investment manager, but also to its clients in the form of economic losses suffered on the investments made by the adviser in reliance on the false information that was provided. In order to recover that investment loss and to vindicate its right to full and truthful information, the investment manager has the right to invoke the Court's jurisdiction under Article III. Thus, the investment manager has standing to sue to recover the investors' losses suffered as a result of the investments it made on their behalf, even though the investment manager has not asserted a claim to recover damages on behalf of itself. In order to ensure that the investment manager's clients do not wish to sue separately to vindicate their own rights and can be bound to the judgment, however, the *EZRA* line of cases also requires that the investment manager possess authorization, in the form of a power of attorney, to commence suit as representative on the clients' behalf.

Unfortunately, the district courts following *EZRA* do not explicitly articulate much of the above analysis, and the opaqueness of their opinions (particularly on the Article III point) may have caused the Court of Appeals to fail to appreciate the strength of their underlying reasoning. Explicit or not, however, the logic of these decisions is sound and, as explained in the next section, firmly entrenched in this Court's Article III standing jurisprudence.

B. By Failing To Recognize That Investment Advisers Suffer Injury-In-Fact When Deprived Of Truthful Information Under The Federal Securities Laws, The Court Of Appeals' Decision Conflicts With Decisions Of This Court Recognizing That Informational Injuries Are Sufficient To Confer Article III Standing.

It is black letter law that injury-in-fact need not be monetary or economic in nature. *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 154 (1970); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 562-63 (1992) ("Of course, the desire to use or observe an animal species, even for purely esthetic purposes, is undeniably a cognizable interest for purpose of standing."). Moreover, this Court has repeatedly held that "[t]he actual or threatened injury required by Article III may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing. . . .". *Havens*, 455 U.S. at 373 (internal quotations omitted); *Warth*, 422 U.S. at 501; *see also Lujan*, 504 U.S. at 578 (reaffirming this principle). Thus, "injury" to a right given to the plaintiff by a federal statute is sufficient to meet the modest requirements of constitutional standing. "Informational" injury is a well-recognized form of statutory injury. In fact, this Court has long recognized that a defendant's failure to provide a plaintiff truthful information that the plaintiff was entitled to receive under a federal statute gives the plaintiff standing to sue even where the plaintiff suffers no pecuniary loss. *See, e.g., Havens*, 455 U.S. at 373-74 (an African-American who had no intention to rent housing but inquired solely to test the defendant's compliance with the Fair Housing Act had

standing to sue for defendant's misrepresentation because section 804(d) of the Act "establishes an enforceable right to truthful information concerning the availability of housing"); *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 24-25 (1998) (federal election statute); *see also White v. Arlen Realty & Dev. Corp.*, 540 F.2d 645, 649 (4th Cir. 1975) (Truth-In-Lending Act).

The connection between the *EZRA* line of cases and this Court's informational injury decisions is clear. As an investment adviser who bought Adelphia debt securities for its clients in reliance on false and misleading information provided by the Respondents in violation of the federal securities laws, Huff suffered an injury-in-fact because Respondents deprived Huff of its right as a "purchaser" under those laws to receive truthful information about those securities. Each of the remedial federal statutes under which Huff brought suit provides standing to persons who "purchased" or "acquired" the securities.[4] Because Huff had the exclusive contractual power to buy Adelphia securities on behalf of its clients and made

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[4] *See* Section 18 of the 1934 Act, 15 U.S.C. § 78r (making a person who files a materially false or misleading document with the SEC liable to "any person . . . who . . . shall have purchased or sold a security at a price which was affected by such statement . . ."); *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723 (1975) (plaintiff under Section 10(b) of the 1934 Act and Rule 10b-5 must be a purchaser or seller of securities); Section 11 of the 1933 Act, 15 U.S.C. § 77k(a) (authorizing "any person acquiring" a security to sue for materially false or misleading statements in a registration statement filed with the SEC); Section 12(a)(2) of the 1933 Act, 15 U.S.C. § 77l(a) (granting a right of rescission to "the person purchasing" a security pursuant to a false or misleading prospectus or oral communication).

the decisions to do so, Huff was a "purchaser" of those securities within the meaning of these statutes even though it did not itself acquire title to them. *EZRA*, 136 F. Supp. 2d at 442-43; *Rent-Way Sec. Litig.*, 218 F.R.D. at 106-109; *Monetary*, 604 F. Supp. at 767 (D.Mo. 1985) (refusing to equate "purchaser" status with ownership of the securities, and instead granting standing to the entity that actually made the securities purchases -- the investment manager); *Odette,* 394 F. Supp. at 959 ("broker who purchases or sells as agent for his customer satisfies the [federal securities laws'] purchaser-seller requirement"); *Am. Bank & Trust*, 335 F. Supp. at 1280-81. Like the investment advisers in these cases, Huff had complete authority over its clients' investments and purchased all of the Adelphia notes for their accounts. The clients had no role whatsoever in Huff's purchase decisions.

Huff's status as a "purchaser" under the federal securities laws gave it the right to receive true and accurate information in connection with the securities it purchased. Like the Fair Housing Act and the Truth-In-Lending Act, the federal securities laws create precisely this type of "informational" right for purchasers of securities. Indeed, the mandatory disclosure regime imposed by the federal securities laws promotes the integrity of the capital markets by enabling investment professionals to make informed decisions. *Rent-Way*, 218 F.R.D. at 109. Emerging from the ashes of the stock market crash of 1929, the 1933 and 1934 Acts were "designed to provide investors with full disclosure of material information concerning public offerings of securities in commerce, to protect investors against fraud and, through the imposition of specified civil liabilities, to promote ethical standards of honesty and fair dealing." *Ernst*

& Ernst v. Hochfelder, 425 U.S. 185, 194-95 (1976); *see also Basic Inc. v. Levinson*, 485 U.S. 224, 230 (1988) ("Underlying the adoption of extensive disclosure requirements [in the 1934 Act] was a legislative philosophy: 'There cannot be honest markets without honest publicity. Manipulation and dishonest practices of the market place thrive upon mystery and secrecy.'") (quoting H.R.Rep. No. 1383, 73d Cong., 2d Sess., 11 (1934).

Respondents' failure to provide truthful and complete material information to Huff in the many public filings at issue deprived Huff, as purchaser of the securities, of its statutory right to receive this information in order to conduct its business of maximizing its clients' investment returns. This failure caused harm to both Huff and the Beneficial Owners. Because Huff purchased bonds that resulted in enormous losses as result of Respondents' fraud, Huff's contractual performance was significantly compromised, and its investment returns for its clients were substantially diminished. That is an "injury" sufficient to confer Article III standing. *Rent-Way*, 218 F.R.D. at 109. That Huff was induced by Respondents' misconduct to purchase the securities at issue creates a relationship between Huff and the Respondents that is "classically adverse, and there clearly exists between them a case or controversy in the constitutional sense." *Singleton*, 428 U.S. at 113.

The Court of Appeals did not decide whether the informational injury suffered by Huff was sufficient to confer Article III standing, reasoning that such a decision was unnecessary because (i) Huff did not plead the existence of this injury in its complaint, and (ii) an award of money damages against Respondents

would not redress it anyway. (App. A at 20a and n.10.) The Court of Appeals was wrong on both counts precisely because it failed throughout its opinion to understand the inextricable connection between Respondents' unlawful failure to provide truthful information about Adelphia to Huff and the resulting economic losses suffered by the Beneficial Owners. Huff's SAC is replete with allegations that Respondents gave Huff false and misleading information about Adelphia by means of the fraudulent documents they disseminated to the marketplace. (*See, e.g.*, App. G at 215a-333a.) Huff relied on that false and misleading information to purchase securities for the Beneficial Owners that it would not have purchased if it had known the truth. That impairment of its ability to perform its job for the Beneficial Owners is the essence of the informational injury that Respondents inflicted on Huff. However, the Beneficial Owners also suffered harm as a result of that injury by losing hundreds of millions of dollars on the investments that Huff made on their behalf in reliance on Respondents' false and misleading statements.

In failing to properly construe Huff's complaint, the Court of Appeals erected a false dichotomy between the informational injury -- the Respondents' failure to provide statutorily mandated truthful information to purchasers of Adelphia bonds -- from the economic harm -- the decline in the value of those bonds that occurred when the truth was revealed. In fact, these are merely two aspects of the same legally cognizable injury. This is easy to see when an investor manages her own portfolio and makes her own decisions about which securities to buy and sell. When she reads and relies upon an issuer's fraudulent 10-K and buys stock

in that issuer at a price that has been artificially inflated by the fraud, the investor suffers from both the deprivation of information to which she was entitled as a purchaser under the securities laws and the resulting economic loss. The injuries are one and the same. The only difference in cases like *EZRA*, *Weinberg* and the one at bar is that the person who suffers the informational injury is not the same person who suffers the economic loss, which is nothing more than a fortuitous consequence of the fact that the investor hired an investment professional to make his investment decisions for him. The injury's underlying mechanics, however, are the same. It is just that now two people -- the investment manager and the beneficial owner client -- satisfy the Article III standing threshold.

Moreover, awarding money damages to Huff that are designed to make the Beneficial Owners whole on their losses redresses both the informational injury to Huff and the economic loss incurred by the Beneficial Owners. An award of damages makes the Beneficial Owners whole, cures the negative consequences that flowed to both Huff and the Beneficial Owners from Respondents' dissemination of false information to Huff and thereby fixes the damage caused to the relationship between Huff and the Beneficial Owners. A damages award in an action brought by Huff on the Beneficial Owners' behalf restores both Huff and the Beneficial Owners to the same position they were in before Huff bought its first Adelphia bond after having been duped by Respondents' fraud. If that does not satisfy the redressability requirement, it is hard to see what would. *See Sprint Commc'ns*, 128 S.Ct. at 2542-43; *see also id.* at 2543 (rejecting argument that aggregators' remission of proceeds of litigation

recoveries to payphone operators meant that award of damages to aggregators would not redress the injuries for which aggregators sued and noting that "federal courts routinely entertain suits which will result in relief for parties that are not themselves directly bringing suit").

C. The Court Should Review The Important Issue Of Investment Adviser Standing Now.

As discussed above, the Second Circuit's ruling in this case cast a wrench into the well-oiled machinery of previously existing law. The decision below is the first one at the appellate level to address the question of investment adviser standing, even though the issue has been litigated in the district courts for almost ten years. Yet, it is unlikely that another Court of Appeals will have the opportunity to express its views on that question anytime soon. Huff's case is unusual. In most of the cases in which an investment adviser has sought standing to sue on its clients' behalf, the issue arose in the context of selecting a lead plaintiff for a private securities class action under the PSLRA. *See, e.g., Weinberg*, 216 F.R.D. at 255; *EZRA*, 136 F. Supp. 2d at 441-43. Given that disputes over lead plaintiff selection are rarely heard at the appellate level, and the fact that most securities class actions that survive motions to dismiss settle before trial, it is highly unlikely that the standing issue decided by the Second Circuit in this case will receive attention from another federal appeals court anytime soon. Indeed, even in Huff's case, the matter came before the Second Circuit only because the District Court took the unusual step of certifying its order for interlocutory appeal under 28 U.S.C. § 1292(b).

District courts, on the other hand, routinely face disputes about who the proper plaintiff should be in actions brought under the federal securities laws. In the context of federal securities practice, the issue of investment adviser standing is a highly important one. Investment advisers like Huff tend to represent institutional investors -- often pension funds and charitable foundations that lack the expertise to invest and manage corporate bond portfolios on their own. Over the past several decades, institutional investors have become increasingly active in the financial markets. Almost sixty percent of the capital stock of the largest publicly-traded firms in the United States is now owned by institutional investors. Stephen J. Choi & Jill E. Fisch, *How to Fix Wall Street: A Voucher Financing Proposal for Securities Intermediaries*, 113 YALE L.J. 269, 280 (2003). As their share of securities ownership has increased, markets have come to rely on institutional investors as an increasingly important source of capital as well as a monitor of capital markets.

Congress has come to rely on them as well as the preferred class of plaintiffs to manage federal securities class actions. The PSLRA establishes a presumption that the plaintiff who possesses the largest financial stake in the relief sought by the class is the most appropriate lead plaintiff to be charged with the responsibility for retaining class counsel and managing the action. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii). The purpose of that presumption is to make federal securities class actions more client-driven, rather than lawyer-driven, by putting in charge of the class investors who have the sophistication and financial stake necessary to make them effective fiduciaries for the absent class

members. These investors will almost always be institutional investors and, as seen in *EZRA* and its progeny, are often the institutional investors' investment advisers who made the investments in the first place. After all, the investment manager -- not the client -- is the entity with knowledge of the actual investment decisions and possession of the facts underlying the claims of securities fraud.

Even outside the class action context, however, the investment adviser will often be a superior plaintiff to the investor itself. For example, in cases where, as here, a large number of clients who all used the same investment manager suffer losses from investments in a given issuer's securities, it far more efficient to permit the investment adviser to bring all of the claims springing from its investment decisions in one action, rather than force the investors to bring a multitude of lawsuits relying on duplicative (if not identical proofs) of their common investment manager's actions. *Cf. Sprint Commc'ns*, 128 S.Ct. at 2534 (discussing role of aggregators in bringing suit on behalf of multiple payphone operators where "the evidentiary demands of a single suit are often great, and ... the resulting monetary recovery is often small").

In light of the Second Circuit's decision, district courts, investment advisors, institutional investors and defendants in securities cases would all greatly benefit from this Court's definitive resolution of the question whether investment advisers have Article III standing to sue in a representative capacity on behalf of their clients. The Second Circuit has called into doubt almost ten years of district court practice in this

area. Guidance from this Court would be extremely beneficial.

II. THE DECISION BELOW IS ALSO INCONSISTENT WITH THIS COURT'S RECENT DECISION IN *SPRINT COMMUNICATIONS.*

In addition to rejecting Huff's claim of informational injury, the Second Circuit also held that, in order to confer standing on Huff to sue on their behalf, the Beneficial Owners were required to assign their claims to Huff. (App. A at 14a-17a.) Absent such an assignment, the Court of Appeals determined that Huff lacked a sufficient legal interest in the lawsuit to satisfy Article III. In support of this ruling, the Court of Appeals relied on this Court's decision in *Sprint Commc'ns*, which it believed "implicitly supports" its prior holding in *Advanced Magnetics* that a power of attorney "does not confer standing to sue in the holder's own right because a power-of-attorney does not transfer an ownership interest in the claim." (*Id.* at 16a.) In the Second Circuit's view, "*Sprint* makes clear that the minimum requirement for an injury-in-fact is that the plaintiff have legal title to, or a proprietary interest in, the claim." (*Id.* at 15a (citing *Sprint Commc'ns*, 128 S.Ct. at 2543-44).)

This Court's opinion in *Sprint Commc'ns* does not support the expansive reading accorded to it by the Court of Appeals. In that case, the injured parties assigned their claims to "aggregators" to bring suit on their behalf and remit back to them the entirety of any recovery. The defendants moved to dismiss on Article III standing grounds, arguing that the aggregators had suffered no "injury in fact" and that the lawsuit failed

the "redressability" element. The Court rejected both arguments, holding that assignees who were required to remit the entire proceeds of any recoveries back to their respective assignors nevertheless possessed constitutional standing. 128 S.Ct. at 2542-44. In doing so, the Court held that plaintiffs who (i) never suffered an injury in fact, and (ii) will derive no benefit from the lawsuit, nevertheless had the requisite "concrete adverseness" to satisfy Article III because they possessed legal title to the claim. *Id.*

Contrary to the Second Circuit's interpretation of the opinion (App. A at 15a) this Court never held in *Sprint Commc'ns* that legal title to the claim was a "minimum requirement" for injury-in-fact under Article III. To the contrary, this Court made clear that the appropriate inquiry is not whether legal title is reposed in the plaintiff, but rather whether the plaintiff is asserting legal rights of its own as the basis for the lawsuit. *See* 128 S.Ct. at 2544. In *Sprint* itself, the aggregator plaintiffs possessed such a right only because they received title to the payphone operators' claims by means of a valid assignment. *Id.* They needed an assignment to confer standing precisely because they never suffered their own injury and, as a matter of fact, were total strangers to both the lawsuit and the transactions that gave rise to it. *Id.*

In contrast to the aggregators, Huff suffered its own injury -- in the form of being deprived of truthful information to which it was entitled under the federal securities laws, with all the negative consequences which flowed from that deprivation -- that gave it legal rights of its own on which to base its suit. It is true that the economic benefits of any recovery in Huff's case will be remitted to the Beneficial Owners in order

to make them whole for the financial injuries they suffered as a result of Respondents' acts. However, that was also true in *Sprint*, and this Court held it did not affect the standing analysis at all. *Id.* at 2542-43 ("And if the aggregators prevail in this litigation, the long-distance carriers would write a check to the aggregators for the amount of dial-around compensation owed. ***What does it matter what the aggregators do with the money afterward?***") (emphasis added). If anything, Huff's interest in this suit is far more likely than the aggregators' to produce the "concrete adverseness" sought by the Constitution and "'upon which the court so largely depends for illumination.'" *Id.* at 2543 (quoting *Baker v. Carr*, 369 U.S. 186, 204 (1962)). Unlike the unrelated aggregator, Huff suffered a direct injury upon being defrauded by Respondents and possesses an ongoing interest as fiduciary in obtaining recovery for the Beneficial Owners on whose behalf it bought Adelphia securities.

Indeed, in light of *Sprint Commc'ns*, the Court of Appeals' focus on the absence of an assignment from the Beneficial Owners elevates form over substance. Notwithstanding that the form of their relationship was assignor-assignee, in substance the payphone operators hired the aggregators to act as their agents and file suit on their behalf because that was more convenient for the payphone operators than filing their own suits. Not only did the assignment contracts require the aggregators to remit all recoveries from the litigation to the payphone operators, but they also expressly provided that the aggregators "will litigate 'in the [payphone operators'] interest'" and act as the operators' "'true and lawful attorney[s]-in-fact.'" *Id.* at 2534 (some alterations in original). One of the reasons

this Court approved that arrangement as sufficient to confer Article III standing on the aggregators was that a contrary holding "could easily be overcome" by, for example, assigning the aggregators "a tiny portion of the assigned claim itself, perhaps only a dollar or two." *Id.* at 2544. Constitutional standing determinations should not turn on such insignificant tweaks to the documents that purport to give the plaintiff authority to bring the claim.

At the end of the day, there is virtually no substantive difference between the assignment arrangement that the Court endorsed in *Sprint* and Huff's relationship here with the Beneficial Owners as their investment manager and attorney-in-fact. Had Huff obtained assignments from the Beneficial Owners as in *Sprint*, it would still be required to prosecute the action in the best interests of the Beneficial Owners and to remit the proceeds of any recovery to them -- just as it is now. The debate over whether Huff possessed an assignment or a power of attorney that so captivated the Court of Appeals detracts from the real issues that should drive the standing analysis. Here, just as in *Sprint*, Respondents' misconduct caused real and substantial injuries that will be redressed by an award of damages in this case. Also just like in *Sprint*, the named plaintiff, Huff, obtained authority from the Beneficial Owners, the parties that incurred the economic losses, to sue and recover those damages on their behalf. The inescapable conclusion is that, just like the aggregators in *Sprint*, Huff has standing to sue under Article III, regardless of the precise form of the documents pursuant to which it acquired that authority. That is the real message of *Sprint*, which the Second Circuit ignored. Because of the importance of the standing issue to federal securities law, this

Court should review the Second Circuit's determination.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the petition for a writ of certiorari in order to review the Second Circuit's decision in this matter.

Respectfully submitted,

Robert J. Kipnees
Counsel of Record
Lawrence M. Rolnick
Thomas E. Redburn, Jr.
Sheila A. Sadighi
John F. Basiak, Jr.

LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, New Jersey 07068
973.597.2500

LAW OFFICES OF MARC B. KRAMER
A Professional Corporation
150 JFK Parkway, Suite 100
Short Hills, NJ 07078
973.847.5924

Attorneys for Petitioner
W.R. Huff Asset Management Co., L.L.C.

APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term, 2007

(Argued: November 7, 2007
Decided: December 3, 2008)

Docket Nos. 06-1664-cv(L), 06-1749(con)

W.R. Huff Asset Management Co., LLC,	)
	)
Plaintiff-Appellee,	)
	)
v.	)
	)
Deloitte & Touche LLP, Credit Suisse	)
Securities (USA) LLC, Credit Suisse,	)
New York Branch, The Royal Bank of	)
Scotland plc, The Bank of Nova Scotia,	)
Toronto Dominion Texas, LLC (f/k/a Toronto	)
Dominion Texas, Inc.), Mizuho International	)
PLC, ABN AMRO Inc., Banc of America,	)
N.A., Fleet Securities, Inc. (n/k/a Bank of	)
America, N.A.), Banc of America Securities	)
LLC, Barclays Capital Inc., Barclays Bank	)
PLC, BNY Capital Markets, Inc., The Bank	)
of New York Company, Inc., CIBC World	)
Markets Corp., CIBC, Inc., Citibank, N.A.,	)
Citigroup Inc., Citicorp USA, Inc., Citigroup	)

Global Markets, Inc., Salomon Smith)
Barney Inc. (n/k/a Citigroup Global)
Markets, Inc.), Calyon Securities (USA), Inc.)
(f/k/a Credit Lyonnais Securities (USA) Inc.),)
Calyon New York Branch (successor by)
operation of law to Credit Lyonnais New)
York Branch), Deutsche Bank Alex. Brown,)
Inc., Deutsche Bank AG, Harris Nesbitt)
Corp., JPMorgan Chase & Co., Morgan)
Stanley & Co., Inc., JPMorgan Securities)
Inc., Scotia Capital (USA), Inc., Cowen &)
Co., LLC (f/k/a SG Cowen Securities)
Corporation), Societe Generale, also known)
as a French Banking Institution, Suntrust)
Capital Markets, Inc., SunTrust Bank, TD)
Securities (USA), Inc., ABN AMRO Bank)
N.V., BMO Nesbitt Burns Corp. (n/k/a)
Harris Nesbitt Burns Corp.); Credit)
Lyonnais Securities (USA) Inc., SG Cowen)
Securities Corp., and Buchanan Ingersoll &)
Rooney Professional Corporation,)
)
Defendants-Appellants.)
_______________________________________)

Before: CABRANES, SACK, and KATZMANN, *Circuit Judges*.

Defendants-appellants filed this interlocutory appeal from two orders of the United States District Court for the Southern District of New York (Lawrence M. McKenna, *Judge*), denying their motion to dismiss plaintiff-appellee's complaint for lack of standing, and adhering to that decision upon reconsideration. We reverse on the ground that plaintiff, an investment advisor that has (a) the discretionary authority to

make investment decisions on its clients' behalf, and (b) the power of attorney to file suit on its clients' behalf, but does not have ownership or title of the claim itself, lacks constitutional standing to bring a securities action in a representative capacity on behalf of its clients.

Reversed and remanded.

LOUIS R. COHEN (Paul R.Q. Wolfson, *on the brief*), Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC, *for Defendants-Appellants Credit Suisse Securities (USA) LLC; Credit Suisse, New York Branch; The Royal Bank of Scotland plc; and Mizuho International plc.*

Max R. Shulman, Cravath, Swaine & Moore LLP, New York, NY, *for Defendant-Appellant Deloitte & Touche LLP.*

Steven R. Schoenfeld, Torys LLP, New York, NY, *for Defendant-Appellant Toronto Dominion (Texas)* LLC.

Andrew J. Frackman (Tancred V. Schiavoni, *on the brief*) O'Melveny & Myers LLP, New York, NY, *for Defendant- Appellant ABN AMRO Bank N.V.*

Michael Luskin (Trevor Hoffman, *on the brief*), Luskin, Stern & Eisler LLP, New York, NY, *for Defendant-Appellant The Bank of Nova Scotia.*

Robert J. Ward, Mayer, Brown, Rowe & Maw LLP, New York, NY, *for Defendants-Appellants Bank of Montreal and BMO Nesbitt Burns Corp.*

Mitchell A. Lowenthal, Cleary Gottlieb Steen & Hamilton LLP, New York, NY, *for Defendants-Appellants ABN AMRO Inc.; Banc of America Securities LLC; Banc of America, N.A.; Barclays Capital Inc.; Barclays Bank PLC; BNY Capital Markets, Inc.; The Bank of New York Company, Inc.; CIBC World Markets Corp.; CIBC Inc.; Citibank,N.A.; Citigroup Inc.; Citicorp USA, Inc.; Citigroup Global Markets Inc.; Calyon Securities (USA) Inc.; Calyon New York Branch; Deutsche Bank Alex. Brown Inc.; Deutsche Bank AG; BMO Capital Markets Corp.; J.P. Morgan Securities Inc.; JPMorgan Chase & Co.; Morgan Stanley & Co. Incorporated; Scotia Capital (USA) Inc.; Cowen & Company, LLC; Societe Generale; SunTrust Capital Markets, Inc.; SunTrust Bank; and TD Securities (USA) Inc.*

Gregory A. Markel (Stacey A. Lara, *on the brief*), Cadwalader, Wickersham & Taft LLP, New York, NY, *for Defendant- Appellant Wachovia Bank, N.A.*

Joseph Friedman (William M. Wycoff, Robert J. Ridge, J. Alexander Hershey, *on the brief*), Thorp Reed & Armstrong, LLP, *for Defendant-Appellant Buchanan Ingersoll & Rooney Professional Corporation.*

LAWRENCE M. ROLNICK, (Thomas E. Redburn, *on the brief*), Lowenstein Sandler PC, Roseland, NJ, *for Plaintiff-Appellee.*

JOSÉ A. CABRANES, *Circuit Judge*:

We are asked to determine whether an investment advisor that has (a) discretionary authority to make investment decisions for its clients, and (b) a power of attorney from its clients to bring this lawsuit, has constitutional standing to sue for violations of federal securities laws on behalf of its clients, who are the beneficial owners of the underlying securities, and not in its own name. This question is before us on an interlocutory appeal of two orders of the United States District Court for the Southern District of New York (Lawrence M. McKenna, *Judge*)—entered August 30, 2005 and October 19, 2005—denying a motion to dismiss the complaint for lack of standing pursuant to Federal Rule of Civil Procedure 12(b)(1), and adhering to that ruling on a motion for reconsideration. *See In re Adelphia Commc'ns Corp. Sec. & Derivative Litig.*, Nos. 03 MDL 1529(LMM), 03 Civ. 5752, 03 Civ. 5753, 2005 WL 2087811 (S.D.N.Y. Aug. 30, 2005) ("*Huff I*"); *In re Adelphia Commc'ns Corp. Sec. and Derivative Litig.*, Nos. 03 MDL 1529(LMM), 03 Civ. 5752, 03 Civ. 5753, 2005 WL 2667201 (S.D.N.Y. Oct. 19, 2005) ("*Huff II*"). *See also In re Adelphia Commc'ns Corp. Sec. and Derivative Litig.*, Nos. 03 MDL 1529(LMM), 03 Civ. 5752, 03 Civ. 5753, 2006 WL 708303, at *4-5 (S.D.N.Y. Mar. 20, 2006) (ordering certification for immediate appeal pursuant to 28 U.S.C. § 1292(b)).

BACKGROUND

In the first half of 2002, Adelphia Communications Corporation ("Adelphia") disclosed for the first time the existence of billions of dollars of debt that led, ultimately, to the company's dissolution in bankruptcy. Many investors in Adelphia filed civil lawsuits alleging

various forms of securities fraud by Adelphia, its management, underwriters, outside auditors, and others. *See In re Adelphia Commc'ns Corp. Sec. and Derivatives Litig.*, No. 03 MDL 1529(LMM), 2005 WL 1278544, at *1 (S.D.N.Y. May 31, 2005) (describing the background of the litigation).

Plaintiff-appellee W.R. Huff Asset Management Co., LLC ("Huff") is an investment advisor for institutional investors such as public employee pension funds. Huff alleges that defendants-appellants—all firms that provided underwriting, auditing, or legal services—prepared, facilitated, or certified inaccurate and misleading disclosures in Adelphia's financial statements, in violation of sections 11 and 12(a)(2) of the Securities Act of 1933, 15 U.S.C. §§ 77k, 77*l*(a)(2), and sections 10(b) and 18 of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b), 78r.

Huff brings this lawsuit as "the investment adviser and attorney-in-fact on behalf of certain purchasers of . . . debt securities issued by Adelphia." (2d Am. Compl. 1.) Huff does not allege that it was an investor in Adelphia; instead, Huff claims that it provided investment advice to its clients and, from 1999 until 2002, purchased Adelphia securities on their behalf. These clients, not Huff, have suffered financial losses as a result of Aldelphia's collapse.[1] Indeed, Huff

[1] Proceeding in parallel with the instant action are two sets of related actions, also assigned to Judge McKenna, in which some of Huff's clients are participating: (1) a class action suit proceeding as part of the multi-district litigation related to the Adelphia collapse, *In re Adelphia Commc'ns Corp. Sec. & Derivative Litig.*, No. 03-CV-5755, *et al.* (S.D.N.Y.); and (2) individual actions brought by some of Huff's clients in their own names, *see, e.g.*,

explicitly disclaims that it "suffered an injury individually in a way that is separate from its agency function." (Transcript of Feb. 20, 2003 Hearing, 19.) *See also id.* at 14 ("We are not seeking damages except on behalf of the beneficial owners of the securities from whom we secured powers of attorney.").[2]

Defendants challenged Huff's constitutional standing to sue on behalf of its investment clients in a motion to dismiss the complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, which concerns a federal court's lack of subject matter jurisdiction.[3] Relying in part on *Indemnified Capital Invs., SA. v. R.J. O'Brien & Assocs., Inc.*, 12 F.3d 1406,

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New York City Employees Ret. Sys. v. Adelphia Comm. Corp., Nos. 02-CV-3778 & 03-CV-5789 (E.D.P.A..); *Los Angeles County Employees Ret. Ass'n v. Rigas*, No. 03-CV-5750 (S.D.N.Y.).

[2] In its briefs to the District Court and this Court, but not in its complaint, Huff avers that it suffered informational injuries and damage to its reputation as a result of Adelphia's misstatements and the poor performance of the Adelphia bonds that Huff bought for its clients. Nonetheless, according to Huff's complaint, the only award that would not ultimately flow to Huff's clients is, presumably, the "costs and expenses in this litigation, including reasonable attorneys' fees," which Huff requests in its Prayer for Relief. (2d Am. Compl. 227.)

[3] Defendants-appellants also challenged Huff's statutory standing under Rule 12(b)(1), its failure to comply with the real party in interest requirement under Rule 17(a), and its failure to name all parties under Rule 10(a) of the Federal Rules of Civil Procedure. The District Court denied relief on all of these grounds. *See Huff I*, 2005 WL 2087811, at *2-4. However, the only issue on appeal is whether Huff lacked constitutional standing to sue. We express no view on the denial of defendants' motion to dismiss on any other ground.

1410 (7th Cir. 1993) (concluding that an investment advisor did not have standing where beneficial owners did not assign their rights to sue to the investment advisor), the District Court initially concluded that Huff's status as attorney-in-fact satisfied the requirements of constitutional standing. *See Huff I*, 2005 WL 2087811, at *3.

Defendants brought a motion for reconsideration, arguing that the District Court had overlooked our decision in *Advanced Magnetics, Inc. v. Bayfront Partners Inc.*, 106 F.3d 11 (2d Cir. 1997), in which we held that a company that possessed powers of attorney from aggrieved shareholders, but did not have a valid assignment of the shareholders' claims, lacked constitutional standing to sue on behalf of the shareholders. *See id.* at 17-18 ("The grant of a power of attorney . . . is not the equivalent of an assignment of ownership; and, standing alone, a power of attorney does not enable the grantee to bring suit in his own name."). Nonetheless, the District Court adhered to its original decision and distinguished *Advanced Magnetics* on the ground that Huff was not only an "attorney-in-fact," but also an investment advisor with unfettered discretion to make investment decisions. *See Huff II*, 2005 WL 2667201, at *1 ("Here . . . in addition to the powers of attorney Huff was given by its clients, Huff was also the clients' investment advisor with unrestricted decision making power over the clients' investments, including those in Adelphia securities."). The District Court cited, as an analogous decision, *Weinberg v. Atlas Air Worldwide Holdings, Inc.*, 216 F.R.D. 248, 255 (S.D.N.Y. 2003), in which an investment advisor that brought a lawsuit on behalf of its clients was found to have statutory standing to sue as a "purchaser" of securities because the investment

advisor was the attorney-in-fact and had unrestricted authority to make investment decisions for its clients. *See Huff II*, 2005 WL 2667201, at *1.

On appeal,[4] defendants-appellants argue that the District Court misapplied *Advanced Magnetics* because the central inquiry of that case was whether an investment advisor's clients properly assigned title or ownership of their securities claims to the named plaintiff, not whether the named plaintiff had previously purchased securities for its clients. *See Advanced Magnetics*, 106 F.3d at 17 (observing that a valid assignment must "transfer at least title or ownership . . . to accomplish a completed transfer of the entire interest of the assignor in the particular subject of the assignment" (internal quotation marks and citation omitted)). Huff replies with a different interpretation of *Advanced Magnetics*. According to Huff, an assignment of claims "is *sufficient* to confer standing," but is not "*necessary* for standing to be found." Under Huff's interpretation, its status as both "attorney-in-fact" and "investment advisor" provides equally sufficient grounds for constitutional standing.

We note that nowhere in this appeal, in the proceedings below, or in its complaint has Huff alleged that its clients—the Beneficial Owners—assigned title or ownership of their claims to Huff.

While this case was pending before us, the Supreme Court held in *Sprint Communications Co.*,

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[4] Huff's complaint names parties that are not participating in this appeal as defendants, including members of Adelphia's senior management. (2d Am. Compl. 45-48.)

L.P. v. APCC Servs., Inc. that an assignee who holds legal title to an injured party's claim has constitutional standing to pursue that claim, even if the assignee has agreed to remit all proceeds from the litigation to the assignor. *See* 554 U.S. —, 128 S. Ct. 2531, 2542-44 (2008). The parties have submitted supplemental letter briefs addressing the relevance of *Sprint* to the outcome of this case. We therefore take this opportunity to discuss the enduring elements of *Advanced Magnetics* in light of *Sprint*, although we are mindful that our central inquiry—whether Huff has constitutional standing to sue on behalf of its clients—was decided by the District Court without the benefit of the Supreme Court's most recent guidance.

DISCUSSION

We review *de novo* whether a plaintiff has constitutional standing to sue. *See, e.g., Fuentes v. Bd. of Educ. of City of New York*, 540 F.3d 145, 148 (2d Cir. 2008). Because "standing is challenged on the basis of the pleadings, we 'accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party.'" *United States v. Vazquez*, 145 F.3d 74, 81 (2d Cir. 1998) (quoting *Warth v. Seldin*, 422 U.S. 490, 501 (1975)).

As an initial matter, we disagree with the District Court's ruling that constitutional standing may be assessed using the test for statutory standing developed in *Weinberg*, 216 F.R.D. at 255, a case involving the appointment of a lead plaintiff pursuant to the Private Securities Litigation Reform Act. *See Huff II*, 2005 WL 2667201, at *1 ("The reasoning of *Weinberg* applies with equal force to standing under the securities laws and standing under Article III.").

Weinberg identified two factors for determining whether investment advisors have statutory standing as "purchasers" under section 10(b) of the Securities Exchange Act: (1) the investment advisor has "unrestricted decision making authority" to invest the securities at issue; and (2) the investment advisor "is also the attorney-in-fact for its clients," *i.e.*, it has obtained the powers of attorney from its clients. 216 F.R.D. at 255. These statutory factors are separate and apart from the elements of constitutional standing, which are set forth below, and cannot be used to avoid constitutional requirements.[5] *See Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91, 100 (1979) ("In no event . . . may Congress abrogate the Art. III minima . . . .").

Article III of the Constitution limits the jurisdiction of federal courts to the resolution of "cases" and "controversies." U.S. Const. art. III, § 2. In order to ensure that this "bedrock" case-or-controversy requirement is met, courts require that plaintiffs establish their "standing" as "the proper part[ies] to bring" suit. *Raines v. Byrd* , 521 U.S. 811, 818 (1997); *see also id.* ("One element of the case-or-controversy

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[5] For purposes of this case, we need not decide when, in the context of a class action under the PSLRA, an investment advisor could qualify as a suitable lead plaintiff. We note, however, that district courts should be mindful that *named* plaintiffs in a class action "must allege and show that they personally have been injured, not that injury has been suffered by other, unidentified members of the class to which they belong and which they purport to represent. Unless [they] can thus demonstrate the requisite case or controversy between themselves personally and [defendants], 'none may seek relief on behalf of himself or any other member of the class.'" *Warth*, 422 U.S. at 502 (quoting *O'Shea v. Littleton*, 414 U.S. 488, 494 (1974)).

requirement is that appellees, based on their complaint, must establish that they have standing to sue."); *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006) ("Determining that a matter before the federal courts is a proper case or controversy under Article III therefore assumes particular importance in ensuring that the Federal Judiciary respects the proper—and properly limited—role of the courts in a democratic society." (internal quotation marks omitted)).

Article III standing consists of three "irreducible" elements: (1) *injury-in-fact*, which is a "concrete and particularized" harm to a "legally protected interest"; (2) *causation* in the form of a "fairly traceable" connection between the asserted injury-in-fact and the alleged actions of the defendant; and (3) *redressability*, or a non-speculative likelihood that the injury can be remedied by the requested relief. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). These requirements ensure that a plaintiff has a sufficiently personal stake in the outcome of the suit so that the parties are adverse. *See Baker v. Carr*, 369 U.S. 186, 204 (1962) ("Have [plaintiffs] alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for the illumination of difficult constitutional questions?").

As a general rule, the "injury-in-fact" requirement means that a plaintiff must have personally suffered an injury. *See, e.g., Lujan*, 504 at 560 n.1 ("By particularized, we mean that the injury must affect the plaintiff in a personal and individual way."); *Valley Forge Christian College v. Americans United for*

Separation of Church and State, Inc., 454 U.S. 464, 472 (1982) ("Art[icle] III requires the party who invokes the court's authority to show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant.") (internal quotation marks omitted); *Baker*, 369 U.S. at 204. Indeed, "[t]he Art[icle] III judicial power exists only to redress or otherwise to protect against injury to the complaining party." *Warth*, 422 U.S. at 499; *see also Moose Lodge No. 107 v. Irvis*, 407 U.S. 163, 166 (1972) (stating that a party may invoke the court's authority only in order to "seek redress for injury done to him . . . not [to] seek redress for injuries done to others").

As we noted above, Huff has not alleged in its complaint that it suffered any injury; rather, the alleged injury was suffered by Huff's clients.[6] Therefore, the dispositive question is whether Huff, as the named plaintiff, can demonstrate an "injury-in-fact" through some other means, such as an assignment of claims. Courts may permit a party with standing to assign its claims to a third party, who will stand in the place of the injured party and satisfy the constitutional requirement of an "injury-in-fact." *See Vermont Agency of Natural Res. v. United States ex rel. Stevens*, 529 U.S. 765, 773 (2000) (observing that, in certain circumstances, "the assignee of a claim has standing to assert the injury in fact suffered by the assignor"); *accord Connecticut v. Physicians Health Servs. of Conn., Inc.*, 287 F.3d 110, 117 (2d Cir. 2002) ("[A] valid and binding assignment of a *claim* (or a

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[6] We address Huff's claims of direct injuries, made for the first time in its briefs, *post*.

portion thereof)—not only the right or ability to bring suit--may confer standing on the assignee." (emphasis in original)).

We addressed the assignment of claims in *Advanced Magnetics*, the case discussed by the District Court upon reconsideration of its initial ruling. The injured parties in that case assigned the "power to commence and prosecute" lawsuits to the named plaintiff. *See* 106 F.3d at 18. We explained that the transfer of title or ownership did not require a "particular form . . . so long as the language manifest[ed the] intention to transfer at least title or ownership . . . to accomplish a completed transfer of the *entire interest* of the assignor in the particular subject of the assignment." *Id.* at 17 (emphasis added) (internal quotation marks omitted). We noted, however, that the agreement at issue did not transfer title or ownership of the claim to the assignee, but rather permitted the assignor to retain the right to terminate the plaintiff-assignee's authority to pursue the assigned claims. *See id.* at 18. In consequence, the assignment amounted to little more than a grant of a power of attorney. But as we further explained, "[t]he grant of a power of attorney . . . is not the equivalent of an assignment of ownership; and standing alone, a power of attorney does not enable the grantee to bring suit in his own name. *Id.* at 17-18. Accordingly, we found that the plaintiff-assignee lacked standing.

As noted above, the Supreme Court recently held that an assignee who holds legal title to an injured party's claim has constitutional standing to pursue the claim, even if the assignee has agreed to remit all proceeds from the litigation to the assignor. *Sprint*, 554 U.S. – , 128 S. Ct. at 2533. In so holding, the Court

relied on an historical practice of federal courts that permitted assignees to bring suits in their own right when they were assigned title for the sole purpose of collection. *Id.* at 2537-41; *see also Rosenblum v. Dingfelder*, 111 F.2d 406, 407-08 (2d Cir. 1940) (concluding that a valid assignment of right to bring suit conferred standing on assignee). *But see Sprint*, 128 S. Ct. at 2553 (Roberts, C.J., dissenting) (contending that historical practice required both legal title and a stake in the proceeds). The Court determined that the assignees, who did not suffer a direct or personal injury as a result of defendants' conduct, satisfied the injury-in-fact requirement because the assignment also transferred the assignor's claims for injuries. *Id.* at 2542. Moreover, the Court explicitly rejected the argument that assignees lacked standing because they planned to remit the litigation proceeds to the assignors. *Id.* at 2542-43 ("What does it matter what the aggregators do with the money afterward?").

In our view, *Sprint* makes clear that the minimum requirement for an injury-in-fact is that the plaintiff have legal title to, or a proprietary interest in, the claim. *Id.* at 2543-44 ("There is an important distinction between simply *hiring* a lawyer and *assigning* a claim to a lawyer (on the lawyer's promise to remit litigation proceeds). The latter confers a property right (which creditors might attach); the former does not.") (emphases added). Moreover, *Sprint* rejects the notion, advanced by the Chief Justice and the three other dissenting Justices, that the injury-in-fact prong of the Article III standing requirement mandates more than legal ownership at the time of suit. *See id.* at 2549 (Roberts, C.J., dissenting) ("The majority concludes that a private litigant may sue in

federal court despite having to pass back all proceeds of the litigation, thus depriving that party of any stake in the outcome of the litigation.").

Sprint therefore implicitly supports the holding of *Advanced Magnetics* that a mere power-of-attorney—*i.e.*, an instrument that authorizes the grantee to act as an agent or an attorney-in-fact for the grantor, *see Black's Law Dictionary* 1209 (8th ed. 2004)—does not confer standing to sue in the holder's own right because a power-of-attorney does not transfer an ownership interest in the claim. By contrast, an assignment of claims confers legal title or ownership of those claims and thus fulfills the constitutional requirement of an "injury-in-fact." *See Advanced Magnetics*, 106 F.3d at 17-18 (distinguishing power of attorney from assignment of ownership for the purposes of standing); *accord Indemnified Capital Invs.*, 12 F.3d at 1410 ("[I]f [the investment advisor]'s customers were interested in bringing this claim against the defendants, they could very easily have assigned their rights to [the investment advisor]. Thus . . . we are of the opinion that [the investment advisor] has failed to satisfy . . . the constitutional requirements . . . of standing . . . .").[7]

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[7] The holding of *Sprint*—that an assignee of a legal claim has standing even if the assignee will transmit any recovery to the assignor—is compatible with other cases in which we have examined the contours of a valid assignment. *See, e.g.*, *Physicians Health Servs. of Conn., Inc.*, 287 F.3d at 118 (requiring that the "remedies being sought . . . flow to the [named plaintiff] as assignee," but not addressing how the assignee has contracted to dispose of those remedies after the lawsuit).

In the instant case, Huff's clients have not transferred ownership of, or title to, their claims to Huff, as required by both *Sprint* and *Advanced Magnetics*. Rather, Huff claims it is "empowered by powers of attorney" to bring a lawsuit "in its representative capacity." Huff's power-of-attorney permits it to serve as an agent of its clients and to conduct litigation on behalf of its clients as their attorney-in-fact,[8] but, like the relationship at issue in *Advanced Magnetics*, Huff's power-of-attorney is not purported to be a valid assignment and does not confer a legal title to the claims it brings. While Huff enjoys the authority to make some decisions concerning litigation, it does not have an ownership stake in any claims its clients might pursue against defendants. *See Advanced Magnetics*, 106 F.3d at 17. On the face of the complaint, Huff's only interest in this litigation as an attorney-in-fact is the recovery of its legal fees, which are a "byproduct of the suit itself" and cannot serve as a basis for Article III standing. *See Vermont Agency of Natural Res.*, 529 U.S. at 772-73 (2000) (internal quotation marks omitted); *see also Diamond v. Charles*, 476 U.S. 54, 70-71 (1986) (holding that an interest in attorney's fees is insufficient for standing purposes).

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[8] We have recently considered a roughly analogous assignment relationship—that between a *qui tam* relator and the United States. *See U.S. ex rel. Eisenstein v. City of New York*, No. 06-3329-cv, —F.3d—, 2008 WL 3840447, *3 (2d Cir. 2008) (distinguishing the role of a relator as "the person responsible for prosecuting the action" from that of the United States as the real party-in-interest which "under the applicable substantive law, has the legal right which is sought to be enforced or is the party entitled to bring suit." (citation and internal quotation marks omitted)).

Huff argues that it qualifies for a prudential exception to the injury-in-fact requirement because of its authority to make investment decisions on behalf of its clients. *See* Appellee's Br. at 16, 42. There are, indeed, a few well-recognized, prudential exceptions to the "injury-in-fact" requirement. These exceptions permit third-party standing where the plaintiff can demonstrate (1) a close relationship to the injured party and (2) a barrier to the injured party's ability to assert its own interests. *See Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004) (in an opinion concerning whether criminal defense attorneys could pursue certain claims on behalf of their clients, observing that generally a party seeking third-party standing must demonstrate a "close relationship with the person who possesses the right" and that the possessor would face a "hindrance" to protecting his own interest); *Mid-Hudson Catskill Rural Migrant Ministry, Inc. v. Fine Host Corp.*, 418 F.3d 168, 174 (2d Cir. 2005) ("[A] plaintiff seeking third-party standing in federal court must . . . demonstrat[e] a close relation to the injured third party and a hindrance to that party's ability to protect its own interests." (internal quotation marks omitted)). In this vein, courts historically have permitted "[t]rustees [to] bring suits to benefit their trusts; guardians ad litem [to] bring suits to benefit their wards; receivers [to] bring suit to benefit their receiverships; assignees in bankruptcy [to] bring suit to benefit bankrupt estates; [and] executors [to] bring suit to benefit testator estates." *Sprint*, 554 U.S. —, 128 S. Ct. at 2543; *see also Smith v. Org. of Foster Families for Equality & Reform*, 431 U.S. 816, 841 n.44 (1977) (recognizing third-party standing for foster parents to raise claims on behalf of foster children).

We reject Huff's assertion of a prudential exception based on "investment manager standing." *See* Appellee's Br. at 22. First, the investment advisor-client relationship is not the type of close relationship courts have recognized as creating a "prudential exception" to the third-party standing rules. *See Kowalski*, 543 U.S. at 130 (discussing specific examples of third-party standing). Second, Huff has failed to demonstrate that, absent a recognition of its standing claim, there is a "hindrance" to the Beneficial Owners' ability to protect their own interests. *Id.* Rather, the Beneficial Owners are relatively sophisticated parties with a demonstrated capacity to protect their own interests in the absence of Huff's intervention.[9] Indeed, several of Huff's clients have filed parallel individual suits in the Adelphia litigation, and others have proceeded as part of a class action pursuing similar claims. *See ante*, n.1. Therefore, Huff does not qualify for a prudential exception to the "injury-in-fact" requirement.

Finally, Huff posits in its briefs, but not in its complaint, that it satisfies the "injury-in-fact" requirement because it has suffered two injuries stemming from its capacity as investment advisor. First, Huff asserts that its "reputation [was] sullied" as

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[9] Huff notes that some of the causes of action alleged have a so-called "eyeball reliance" requirement, which requires that the plaintiff personally have read and relied on the misstatements. Because Huff, and not its clients, "eyeballed"—that is, received and relied on—the Adelphia information, its clients would be precluded from bringing suit because the clients did not rely on the fraudulent information themselves. We take no view on whether, in these circumstances, Huff's clients would be precluded from suit for these violations because the issue is not before us.

a result of the decision to invest in Adelphia bonds for its clients. Second, Huff suggests that it has suffered an "informational injury" as a result of its reliance on the untruthful information provided by Aldelphia when Huff purchased Aldelphia securities for its clients. Huff contends that the provision of untruthful information by defendants violated its "right" under the relevant statutes "to receive truthful and accurate information about the publicly-traded securities [it] purchase[d] in the exercise of [its] fiduciary duties" and impaired its performance as an investment advisor.[10]

However, Huff has brought this suit on behalf of its clients, not itself. The remedies sought in the complaint—principally money damages associated with the losses suffered by Huff's clients—would not redress either the alleged injury to Huff's reputation or its "informational injury." *See Vermont Agency of Natural Res.*, 529 U.S. at 772 ("The interest [asserted for standing purposes] must consist of obtaining compensation for, or preventing, the violation of a legally protected right."); *see also Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 107 (1998) ("Relief that does not remedy the injury suffered cannot bootstrap a plaintiff into federal court."). Accordingly, these alleged injuries are not sufficient to confer standing on Huff.

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[10] The allegation that Huff itself sustained an injury first arose in Huff's opposition to the motion to dismiss. We express no view as to whether an injury to Huff's reputation as an investor or an "informational injury"—*i.e.*, a harm stemming from an entity's alleged withholding of truthful information, *see* Appellee's Br. at 32—constitute cognizable claims, had they been properly pleaded.

CONCLUSION

To summarize:

1. Huff lacks constitutional standing to bring suit for violations of the federal securities laws in its own name but on behalf of its clients, the beneficial owners of the relevant securities.

2. Huff has not demonstrated an "injury-in-fact" because it does not have legal title or ownership of its clients' claims against Adelphia.

3. Huff's status as both an attorney-in-fact for litigation purposes and an investment advisor with unfettered discretion over its clients' investment decisions does not confer on Huff Article III standing to sue in a representative capacity on its clients' behalf.

The judgment of the District Court is therefore reversed, and the cause is remanded to the District Court for proceedings consistent with this opinion.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

03 MDL 1529 (LMM)

[Filed October 19, 2005]

IN RE ADELPHIA COMMUNICATIONS CORPORATION SECURITIES AND DERIVATIVE LITIGATION	))))
THIS MEMORANDUM AND ORDER APPLIES TO 03 Civ. 5752 & 03 Civ. 5753	))))

MEMORANDUM AND ORDER

The motion of the CSFB defendants'[1] for reconsideration of the Court's Memorandum and Order of August 29, 2005, *In re Adelphia Communications Corporation Securities and Derivative Litigation*, Nos. 03 Civ, 5752 & 03 Civ. 5753, 2005 WL 2087811 (Aug. 30, 2005), insofar at it found that plaintiff W.R. Huff Asset Management Co., LLC ("Huff") has standing, is

[1] The CSFB defendants are Credit Suisse First Boston LLC and other entities identified in their Notice of Motion for Reconsideration under Local Rule 6.3, at 1. Defendants other than the CSFB defendants have joined in the motion. (Def. Mot. at 1 n.1.)

granted; upon reconsideration, the Court adheres to its original determination.

Advanced Magnetics, Inc. v. Bayfront Partners, Inc., 106 F.3d 11 (2d Cir. 1997), on which the motion for reconsideration is premised, states that, "standing alone, a power of attorney [as opposed to a transfer of ownership] does not enable the grantee to bring suit in his own name." *Id.* at 17-18 (citation omitted).

Here, however, in addition to the powers of attorney Huff was given by its clients, Huff was also the clients' investment advisor with unrestricted decision making power over the clients' investments, including those in Adelphia securities. That is a meaningful distinction of the present case from *Advanced Magnetics*, and the combination of Huff's relationship to its clients' accounts and the powers of attorney confers standing on Huff, as was held, in similar circumstances, in *Weinberg v. Atlas Air Worldwide Holdings, Inc.*, 216 F.R.D. 248, 255 (S.D.N.Y. 2003). The reasoning of *Weinberg* applies with equal force to standing under the securities laws and standing under Article 111.

That *Weinberg* was decided in the context of the appointment of a lead plaintiff in a class action does not mean that the case does not apply here. A lead plaintiff, plainly, must have standing, and that is why Judge Conner addressed the standing issue in *Weinberg*. As to the movants' argument that it will be unable, should the occasion arise, to assert a *res judicata* defense against a Huff client under whose power of attorney Huff is suing in this case, movants will be able, as appropriate, to ascertain the relevant information. (Cf. Pl. Mem. at 5 n.4.)

SO ORDERED.

/s/ ____________________
Lawrence M. McKenna
U.S.D.J.

Dated: October 19, 2005

APPENDIX C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

03 MDL 1529 (LMM)

[Filed August 29, 2005]

IN RE ADELPHIA COMMUNICATIONS CORPORATION SECURITIES AND DERIVATIVE LITIGATION	)
THIS MEMORANDUM AND ORDER APPLIES TO 03 Civ. 5752, 03 Civ. 5753	)

MEMORANDUM AND ORDER

McKENNA, D. J.,

Defendant financial institutions, defined in this Court's May 27, 2005 Memorandum and Order[1] ("May 27 Order") *In re Adelphia Communications Corp. Sec.*

[1] By letter endorsements dated June 8 and 9, 2005, this Court clarified that included are: Bank of Montreal; Wachovia Bank N. A.; Harris Nesbitt Corp.; Wachovia Capital Markets; Credit Suisse First Boston Corporation; Credit Suisse First Boston, New York Branch; The Royal Bank of Scotland; and Mizuho International plc.

& Deriv. Litig., No. 03 MD 1529, 2005 WL 1278544, at *2 nn.2 & 3 (S.D.N.Y. May 31, 2005), Deloitte & Touche LLP ("Deloitte"), and Buchanan Ingersoll Professional Corporation[2] (collectively, "defendants") move to dismiss *W.R. Huff Asset Mgmt. Co.* (03-CV-5752) ("*Huff*") and (03-CV-5753) ("*Huff 2*")[3] for lack of standing under Fed. 3. Civ. P. 12 (b) (1) and for failure to comply with Rules 17 (a) and 10. For the reasons set forth below, the motion is denied.

1

W.R. Huff Asset Management Co., L.L.C. ("Huff"), the plaintiff in both *Huff 1* and *Huff 2*, is "an investment manager and registered investment adviser" that purchases securities on behalf of "Beneficial Owners," such as "public and private pension funds, charities, foundations and other institutions, and high net worth individuals." (*Huff 1* Am. Compl. at ¶ 126) According to the *Huff 1* amended complaint,

> [e]ach Beneficial Owner granted Huff complete discretion to invest on its behalf . . . [and]

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[2] Buchanan Ingersoll moved to dismiss the *Huff* actions by "incorporat[ing] . . . by reference in their entirety" the brief filed by the financial institutions and Deloitte. (Global Motion, Fed. Binder II, Sec. 4C at 23)

[3] *Huff 2* was dismissed in its entirety as time-barred pursuant to this Court's July 18, 2005 Memorandum and Order. *In re Adelphia*, No. 03 MD 1529, 2005 WL 1679540, at *1 (S.D.N.Y. July 18, 2005) ("July 18 Order"). However, the parties' standing arguments address *Huff 2*, and this Court's decision herein will address *Huff 2* as if it had not been dismissed.

> [d]ecisions concerning whether to buy or sell particular securities for Beneficial Owners' accounts are solely Huff's; the Beneficial Owners have no role whatsoever in these investment decisions. In exercising this discretionary authority, Huff made numerous investment decisions to purchase Adelphia notes on the Beneficial Owners' behalf . . . .None of the Beneficial Owners had any input, at any time, into Huff's decision to purchase Adelphia securities for their accounts . . . .In the wake of the disclosures about Adelphia's true financial condition[4] . . . Huff . . . obtained specific authority from the Beneficial Owners, by means of power of attorney, to commence this suit for recovery of their losses. Thereafter Huff filed this case, as investment adviser and attorney-in-fact, to recover damages on behalf of its clients.

Id. at ¶¶ 127-32. Identical allegations were made in the *Huff 2* amended complaint. (*Huff 2* Am. Compl. ¶¶ 81-88)

Defendants' motion to dismiss is based on their contention that "Huff purports to sue in its own name . . . on behalf of certain unnamed 'beneficial owner' clients . . . [and] inexplicably has refused to disclose the names of its clients, in direct contravention of federal standing requirements," and

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[4] A recitation of the specific allegations at issue is unnecessary, as they were set forth in detail in the May 27 Order. *In re Adelphia*, 2005 WL 1278544, at *1-4.

the requirements of Fed. R. Civ. P. 17(a) and 10. (Global Motion, Fed. Binder, Sec. 2A at 1)[5]

3

In the context of a motion to dismiss, plaintiff bears the burden of establishing that jurisdiction may be properly exercised. *See, e.g., Metro. Life Ins. Co. v. Robertson-Ceco Corp.*, 84 F.3d 560, 566 (2d Cir. 1996). The Court must assume the truth of plaintiff's factual allegations. *See, e.g., PDK Labs., Inc. v. Friedlander*, 103 F.3d 1105, 1108 (2d Cir. 1997). A motion to dismiss made prior to discovery may be defeated if the complaint and supporting affidavits make out a prima facie showing of jurisdiction. *Id.*

4

Defendants first contend that Huff lacks statutory standing under the relevant federal securities laws, which, defendants note, "require that the plaintiff be someone who purchased or sold securities." (Global Motion, Sec. 2A at 4) Defendants are correct in their contention that §11 of the Securities Act, for example, "requires that the plaintiff be a 'person acquiring [a] security,'" 15 U.S.C. §77k, while §18 of the Exchange Act "requires that the plaintiff have 'purchased or sold a security,'" *id.* §78r. (Global Motion, Sec. 2A at 4) As for §10(b) and Rule 10b-5 promulgated thereunder, the Supreme Court made clear that the plaintiff also must be either a purchaser or seller of securities in order to

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[5] All subsequent citations to the Global Motion will assume a reference to the "Federal Binder."

have standing. *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 755 (1975).

Thus, the central question is whether an investment adviser, such as Huff, qualifies as a purchaser of the securities at issue, even though the relevant securities purchases were made on behalf of the adviser's, *i.e.*, Huff's, clients. Defendants answer that question in the negative, arguing that "[n]othing in the Huff Amended Complaints alleges that Huff . . . bought . . . a single security on its own behalf," citing for that proposition, *Competitive Assocs., Inc. v. Int'l Health Scis.*, No. 72 Civ. 1848, 1972 WL 350, Fed. Sec. L. Rep. (S.D.N.Y. Oct. 10, 1972). (Global Motion, Sec. 2A at 4) Unfortunately for defendants, a review of the caselaw counsels a different result, as the vast majority of the cases to address investment advisor standing have found that plaintiffs similar to Huff had standing to recoup the financial losses of their clients.[6]

The most recent case in this jurisdiction that squarely addresses the investment advisor standing issue is *Weinberg v. Atlas Air Worldwide Holdings, Inc.*, 216 F.R.D. 248 (S.D.N.Y. 2003). In that case, Judge Conner ruled that "when the investment advisor is also the attorney-in-fact for its clients with unrestricted decision making authority, the investment advisor is considered the 'purchaser' under the federal securities laws with standing to sue in its

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[6] Interestingly, in the more recent jurisprudence, the issue has come up most frequently in the context of investment advisor plaintiffs' motions to be appointed lead plaintiff under the Private Securities Litigation Reform Act. In addressing that issue, courts have had to first resolve the question of whether investment advisors had standing.

own name." *Id.*; *accord In re eSpeed, Inc. Sec. Litig.*, No. 05 Civ. 2091, 2005 WL 1653933, at *1 & n.13 (S.D.N.Y. Jul. 13, 2005); *In re Daimler Chrysler AG Sec. Litig.*, 216 F.R.D. 291, 298-99 (D. Del. 2003); *Roth v. Knight Trading Group. Inc.*, 228 F. Supp. 2d 524, 529 (D. N.J. 2002); *Newman v. Eagle Building Tech.*, 209 F.R.D. 499, 505 (S.D. Fla. 2002); *EZRA Charitable Trust v. Rent-Way, Inc.*, 136 F. Supp. 2d 435, 441-42 (W.D. Pa. 2001). This Court chooses to follow Judge Connor's ruling that standing exists where an investment advisor has both complete investment authority and is the attorney-in-fact for its clients.

A review of the *Huff* amended complaints demonstrates that Huff has pled facts sufficient to satisfy the *Weinberg* standard. As discussed in section 1, *supra*, Huff was granted complete discretion to invest on its clients' behalf, and also obtained specific authority, by means of powers of attorney, to commence the instant suit. *See* Huff Am. Compl. ¶¶ 127, 132; *Huff 2* Am. Compl. ¶¶ 83, 88. Thus, this Court finds that Huff is a "purchaser" of the Adelphia securities at issue with statutory standing to bring the instant suit.

5

Defendants next argue, as a separate and independent ground for dismissal, that Huff failed to plead sufficient facts to satisfy constitutional standing requirements. (Global Motion, Sec. 2A at 5) "The fundamental principles governing whether a plaintiff has [constitutional] standing . . . are straightforward and familiar. A plaintiff must 'allege[ ] such a personal stake in the outcome of the controversy as to warrant *his* invocation of federal-court jurisdiction and to

justify exercise of the court's remedial power on his behalf.'" *In re Nasdaq Market-Makers Antitrust Litig.*, 169 F.R.D. 493, 504 (S.D.N.Y. 1996) (quoting *Warth v. Seldin*, 422 U.S. 490, 498-99 (1975)) (emphasis included).

Defendants do not present authority in this Circuit that is determinative of the issue. However, one case that defendants do point to, and which this Court finds persuasive, is *Indemnified Capital Invs., SA v. R.J. O'Brien & Assocs., Inc.*, 12 F.3d 1406, 1410 (7th Cir. 1993). Defendants are correct that "the Seventh Circuit denied standing to an investment advisor . . ." in that case. (Global Motion, Sec. 2A at 7) However, in this Court's view, *Indemnified Capital Invs.* supports Huff's position. Although that case dealt with a different federal securities statute, the standing question before the Seventh Circuit was sufficiently analogous to the one presented here – *i.e.*, whether an investment advisor can satisfy constitutional standing requirements when suing to recoup the financial losses of its clients. 12 F.3d at 1409. The Seventh Circuit held that the particular investment advisor before it did not have standing, finding that "if [the investment advisor]'s customers were interested in bringing this claim against the defendants, they could very easily have assigned their rights to [the investment advisor]. Thus . . . we are of the opinion that [the investment advisor] has failed to satisfy . . . the constitutional requirements . . . of standing." *Id.* at 1410. In contrast, in the instant case, Huff has alleged that it is acting as attorney-in-fact on behalf of its clients. Thus, this Court finds that the constitutional standing requirements have been satisfied, and defendants' motion to dismiss the *Huff* matters for lack of standing is denied.

6

Fed. R. Civ. P. 17(a) provides that "[e]very action shall be prosecuted in the name of the real party in interest." *Id.* Defendants contend that Huff has failed to comply with that rule, because Huff has sued "in its own name on behalf of other parties." (Global Motion, Sec. 2A at 7)

The purpose of Rule 17(a) is to ensure that "[r]es judicata will preclude relitigation" of previously resolved matters. *Amalgamated Sugar Co., LLC v. NL Indus., Inc.*, 825 F.2d 634, 639 (2d Cir. 1987). According to the Second Circuit, "[t]he doctrine of privity, which extends the res judicata effect of a prior judgment to nonparties who are in privity with the parties to the first action, is to be applied with flexibility." *Id.* at 640 (citations omitted). In *Weinberg*, Judge Connor found that the requirements of Rule 17(a) were met where an investment advisor was "in privity with its clients as it has 'complete investment authority' and was the 'attorney-in-fact with full power and authority to bring suit to recover for investment losses.'" *Weinberg*, 216 F.R.D. at 255; *accord Lemanik, S.A. v. McKinley Allsopp, Inc.*, 125 F.R.D. 602, 607 (S.D.N.Y. 1989); *Bache & Co. v. Int'l Controls Corp.*, 324 F. Supp. 998, 1004 (S.D.N.Y. 1971), aff'd 496 F.2d 696 (2d Cir. 1972)); *Monetary Mgt. Group of St. Louis, Inc. v. Kidder, Peabody & Co., Inc.*, 604 F. Supp. 764 (E.D. Mo. 1985). This Court agrees with Judge Connor's analysis. By alleging that it had complete investment authority and is operating as attorney-in-fact, Huff has satisfied the requirements of Rule 17(a) and is the real party in interest in both *Huff* actions.

7

Defendants' final argument is that Huff has violated Fed. R. Civ. P. 10 by failing to disclose the names of its investor-clients in the caption of the amended complaints. (Global Motion, Sec. 2A at 11) Rule 10 provides that "[i]n the complaint the title of the action shall include the names of the parties." Fed. R. Civ. P. 10. Huff responds that "because Huff is the real party in interest, it has no obligation under Rule 10 to specifically identify its clients in the respective captions of the two complaints it filed." (Pl. Opp. Fed. Binder, Sec. 2A at 3) This Court agrees with that contention, based on the finding in section 6, *supra*, that Huff is in fact the real party in interest in both *Huff* matters.

8

For the reasons discussed above, defendants' motion to dismiss the *Huff* actions for lack of standing or for failure to comply with Fed. R. Civ. P. 17(a) or 10 is denied.[7]

So Ordered.

Dated: August 29, 2005
New York, New York

/s/ ______________________
Lawrence M. McKenna
U.S.D.J.

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[7] This ruling does not change the fact that *Huff 2* was dismissed in its entirety pursuant to this Court's July 18 Order.

APPENDIX D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

03 MDL 1529 (LMM)

[Filed March 15, 2006]

IN RE ADELPHIA COMMUNICATIONS CORPORATION SECURITIES AND DERIVATIVE LITIGATION	))))
THIS MEMORANDUM AND ORDER APPLIES TO 03 Civ. 5752, 03 Civ. 5753	))))

MEMORANDUM AND ORDER

McKENNA, D. J.,

1.

Defendants Deloitte & Touche LLP and the financial institutions identified in defendants' motion papers[1] move for an order pursuant to 28 U.S.C. § 1292(b) certifying an interlocutory appeal of this

[1] *See* Notice of Mot., Nov. 15, 2005, at 1 n.1; and Reply Mem., Jan. 27, 2006, at 1 n.1.

Court's orders[2] which, *inter alia*, denied defendants' motion for dismissal of *W.R. Huff Asset Mgmt. Co., L.L.C. v. Deloitte & Touche LLP* (No. 03 Civ. 5752) and *W.R. Huff Asset Mgmt. Co., L.L.C. v. Deloitte & Touche LLP* (No. 03 Civ. 5753), both included in the above multidistrict litigation.[3] Specifically, defendants seek certification for immediate appeal to the Second Circuit of the question whether plaintiff Huff Asset Management Co., L.L.C. ("Huff") has constitutional standing.

2.

As described by defendants:

> Huff is "an investment manager and registered investment adviser" that purchases securities "predominately on behalf of public and private pension funds, charities, foundations and other institutions, and high net worth individuals". (Huff 1 Second Am. Compl. ¶ 126). Huff never bought a single Adelphia security for its own account and never suffered a penny of loss as a result of the decline in value of those securities; rather, it is suing solely "on behalf of its clients", who allegedly granted it complete discretion to

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[2] *In re Adelphia Comm. Corp. Sec. & Deriv. Litig.*, No. 03 MDL 1529, 2005 WL 2087811 (S.D.N.Y. Aug. 30, 2005) ("August 30 Order"), *reconsideration granted*, 2005 WL 2667201 (S.D.N.Y. Oct. 19, 2005) ("October 19 Order") (adhering to original determination). Familiarity with these decisions is assumed.

[3] The second of these cases was also dismissed on other grounds. *In re Adelphia Comm. Corp. Sec. & Deriv. Litig.*, No. 03 MDL 1559, 2005 WL 1679540 (S.D.N.Y. Jul. 18, 2005).

> invest on their behalf and gave it power of attorney to commence this action. (*Id.* ¶¶ 23, 127-32.)

(Def. Mem. at 2.) Huff responds that "investment advisers, who, like Huff, possess discretionary authority over their clients' investments as well as authority to act as attorney-in-fact on their clients' behalf, have standing to sue on behalf of their clients to recover damages under the federal securities laws." (Pl. Opp'n at 2.)

In the August 30 Order, the Court, following, principally, *Weinberg v. Atlas Worldwide Holdings, Inc.*, 216 F.R.D. 248 (S.D.N.Y. 2003), concluded that "Huff is a 'purchaser' of the Adelphia securities at issue with statutory standing to bring the instant suit," because Huff had "complete discretion to invest on its clients' behalf, and also obtained specific authority, by means of powers of attorney, to commence the instant suit." August 30 Order, 2005 WL 2087811, at *2.

The Court then considered constitutional standing. *Id.* at *3. The Court noted that, to obtain constitutional standing, "'[a] plaintiff must "allege [ ] such a personal stake in the outcome of the controversy as to warrant *his* invocation of federal-court jurisdiction and to justify exercise of the court's remedial power on his behalf."'" *Id.* (quoting *In re Nasdaq Market-Makers Antitrust Litig.*, 169 F.R.D. 493, 504 (S.D.N.Y. 1996) (quoting *Warth v. Seldin*, 422 U.S. 490, 498-99 (1975))). The Court read *Indemnified Capital Invs., SA v. R.J. O'Brien & Assocs. Inc.*, 12 F.3d 1406 (7th Cir. 1993) -- cited by defendants, in which the Seventh Circuit concluded that the plaintiff

investment advisor did not have standing -- to support Huff's position:

> Although that case dealt with a different federal securities statute, the standing question before the Seventh Circuit was sufficiently analogous to the one presented here--*i.e.*, whether an investment advisor can satisfy constitutional standing requirements when suing to recoup the financial losses of its clients. 12 F.3d at 1409. The Seventh Circuit held that the particular investment advisor before it did not have standing, finding that "if [the investment advisor]'s customers were interested in bringing this claim against the defendants, they could very easily have assigned their rights to [the investment advisor]. Thus . . . we are of the opinion that [the investment advisor] has failed to satisfy . . . the constitutional requirements . . . of standing." *Id.* at 1410. In contrast, in the instant case, Huff has alleged that it is acting as attorney-in-fact on behalf of its clients. Thus, this Court finds that the constitutional standing requirements have been satisfied, and defendants' motion to dismiss the *Huff* matters for lack of standing is denied.

August 30 Order, 2005 WL 2087811, at *3.

In the October 19 Order, the Court granted reconsideration, but adhered to its original determination. 2005 WL 2667201, at *1. Defendants premised their motion on *Advanced Magnetics, Inc. v. Bayfront Partners, Inc.*, 106 F.3d 11 (2d Cir. 1997), in which the Second Circuit held that "standing alone, a power of attorney [as opposed to a transfer of

ownership] does not enable the grantee to bring suit in his own name," *id.*, at 17-18 (citation omitted). The Court found *Advanced Magnetics* distinguishable because Huff, in addition to powers of attorney running to it from its clients, was also "the clients' investment advisor with unrestricted decision making power over the clients' investments, including those in Adelphia securities." 2005 WL 2667201, at *1. The Court also relied on *Weinberg*, finding that that decision's reasoning "applies with equal force to standing under the securities laws and standing under Article III." *Id.*[4]

3.

Certification under Section 1292(b) requires both that the order, interlocutory appeal from which is sought, "involves a controlling question of law as to which there is substantial ground for difference of opinion," and also that "the order may materially advance the ultimate termination of the litigation." 28 U.S.C. § 1292(b).

First, regarding the issue of "controlling," the Second Circuit has explained that:

> Although the resolution of an issue need not necessarily terminate an action in order to be "controlling," it is clear that a question of law is "controlling" if reversal of the district court's order would terminate the action. For example, we have granted certification when the order

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[4] The Court found irrelevant that *Weinberg* was decided in the context of appointment of lead counsel in a class action. *Id.*

involved issues of in personam and subject matter jurisdiction.

Klinghoffer v. S.N.C. Achille Lauro, 921 F.2d 21, 24 (2d Cir. 1990) (citations omitted).

Here, if this Court's August 30 Order were reversed on the ground that Huff lacks standing, that would be an end of the case. Huff argues that, even if the August 30 Order were reversed, the case would not necessarily be dismissed because "Huff can cure the alleged standing problem by amending its complaints to add its clients as named plaintiffs." (Pl. Opp'n at 10-11 (citing *Advanced Magnetics*, 106 F. 3d at 20).) That argument is not persuasive. If the Second Circuit found that Huff did not have standing, then the remedy on remand, if granted, would likely not be to *add* individual client plaintiffs to Huff, but rather to allow the assertion of claims by the individual client plaintiffs, not by Huff. There does not appear to be any logical reason why the addition of Huff's clients would give Huff itself standing. In *Advanced Magnetics*, the Second Circuit "remanded for the filing of an amended complaint *substituting* the selling shareholders as the named plaintiffs on their own respective claims." 106 F.3d at 22 (emphasis added). This Court finds that the issue as to which certification is sought is a "controlling" one.

Second, this Court also finds that there is a substantial ground for a difference of opinion as to that controlling question.

"In essence the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues. This inquiry

involves both constitutional limitations on federal court jurisdiction and prudential limitations on its exercise." *Warth v. Seldin*, 422 U.S. 490, 498 (1975) (citations omitted). The constitutional limitations are those "required by Art. III [of the U.S. Constitution] *ex proprio vigore*," while the prudential limitations are those "that the Court itself has erected and which were not compelled by the language of the Constitution." *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 471 (1982) (citing *Flast v. Cohen*, 392 U.S. 83, 97 (1968)). The constitutional and prudential limitations are distinct. "[N]either the counsels of prudence nor the policies implicit in the 'case or controversy' requirement should be mistaken for the rigorous Art. III requirements themselves. Satisfaction of the former cannot substitute for a demonstration of '"distinct and palpable injury" . . . that is likely to be redressed if the requested relief is granted.'" *Valley Forge*, 454 U.S. at 475 (quoting *Gladstone, Realtors v. Village of Billwood*, 441 U.S. 91, 100 (1979) (quoting *Warth*, 422 U.S. at 501)).

Defendants argue that Section 1292(b) certification should be granted as to the issue of whether Huff has constitutional, or Article III, standing.

> To satisfy the "case" or "controversy" requirement of Article III, which is the "irreducible constitutional minimum" of standing, a plaintiff must, generally speaking, demonstrate that he has suffered "injury in fact," that the injury is "fairly traceable" to the actions of the defendant, and that the injury will likely be redressed by a favorable decision.

Bennett v. Spear, 520 U.S. 154, 162 (1997) (quoting *Lujan v. Defenders of Wild Life*, 504 U.S. 555, 560-61 (1992)) (other citation omitted).

Neither side has cited a Second Circuit decision deciding whether a party in Huff's circumstances has constitutional standing to assert its clients' claims. Defendants are correct in pointing out (Def. Mem. at 5-6) that the language of *Indemnified Capital*, quoted by this Court in the August 30 Order, 2005 WL 2087811, at *3, is taken from that decision's discussion of the prudential requirements for standing, 12 F.3d at 1410, not from its preceding discussion of constitutional standing, 12 F.3d at 1408-09. *See id.* at 1410 ("Even if ICI has satisfied the constitutional requirements for standing, which it does not, it must also satisfy the prudential requirements.") It is not clear whether the Second Circuit, if it was persuaded by *Indemnified Capital*'s application of constitutional standing doctrine, would accept this . Court's distinguishing of *Advanced Magnetics* in the October 19 Order. And it is not clear whether the ruling on standing in *Weinberg*, 216 F.R.D. at 255, is intended to refer to prudential or constitutional standing, or both.

In the circumstances, there is a substantial ground for difference of opinion on the question whether Huff has adequately pleaded the necessary injury in fact to proceed.

Finally, an immediate appeal on this issue "may materially advance the ultimate termination of the litigation." 28 U. S.C. § 1292 (b) . Huff urges that this is not so because it is only one of many litigants in the totality of a multidistrict litigation, which includes a consolidated class action. (Pl. Opp'n at 11-12.) That

argument, however, is not persuasive. In the first place, if the Second Circuit were to find that Huff lacked standing, the Huff case would disappear. It could be that its clients would be allowed to sue on their own individual claims, but those clients (or some of them) might well prefer to proceed simply as members of the class on whose behalf the consolidated class action has been brought, rather than become involved in the delay and expense that such individual actions (or a consolidated action) would entail. The elimination of a significant component of the multidistrict litigation, such as the Huff claims, plainly works toward the termination of the whole. In the second place, and perhaps more importantly, it is this Court's view that, were the Second Circuit to affirm or reverse this Court's conclusion that Huff does have standing, then that elimination of uncertainty would contribute positively to the possibility of settlement, which is this Court's ultimate goal to the extent possible.[5]

The proposed appeal presents, in standing, a fundamental threshold question as to which there is a substantial ground for difference of opinion. The resolution of the question now may materially advance the ultimate termination of the case. The question, moreover, is a discrete legal issue not dependent on disputed facts that can easily be briefed promptly. This Court believes that the present motion reflects one of those exceptional situations, *see Klinghoffer*,

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[5] The Court has not considered herein Huff's argument that it has standing by reason of its own interest as an investment advisor to accurate information (Pl. Opp'n at 9-10; Def. Reply Mem. at 3-4 & n.2) because it was not relied on in the August 30 Order or the October 19 Order.

921 F.2d at 25, in which an interlocutory appeal is warranted.

Defendants' motion pursuant to 28 U.S.C. § 1292(b) for certification for immediate appeal of the Court's decisions of August 30, 2005 and October 19, 2005 insofar as they deny defendants' motion for dismissal of the Huff complaints for lack of standing is granted.

SO ORDERED.

Dated: March 15, 2006

/s/ ____________________
Lawrence M. McKenna
U.S.D.J.

APPENDIX E

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[Filed August 24, 2006]

Docket Nos. 06-1664-mv(L), 06-1749-mv(Con)

In re Adelphia Communications Corp.)
Securities & Deriv. Litig.)
---)
Credit Suisse Securities LLC, *et al.*,)
Petitioners-Appellants)
v.)
)
W.R. Huff Asset Management Co., LLC,)
Plaintiff-Appellee,)
)

Present:

Hon. José A. Cabranes,
Hon. Robert D. Sack,
Hon. Peter W. Hall,
Circuit Judges.

Petitioners, through counsel, move for leave to file an interlocutory appeal, pursuant to 28 U.S.C. § 1292(b), from the district court's order denying Petitioners' motion to dismiss, for lack of standing, the second amended complaint of W.R. Huff Asset Management,

Co. ("Huff"). Petitioners additionally move for leave to file a reply brief and Huff moves for leave to file a sur-reply. The parties' motions to file reply and sur-reply briefs are hereby granted. The petition is hereby GRANTED.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By:/s/________________________

APPENDIX F

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[Filed: December 3, 2008]

Docket Nos. 06-1664-cv(L), 06-1749(CON)

W.R. Huff Asset Management Co., LLC,)
)
Plaintiff-Appellee,)
)
v.)
)
Deloitte & Touche LLP, Credit Suisse)
Securities (USA) LLC, Credit Suisse,)
New York Branch, The Royal Bank of)
Scotland plc, The Bank of Nova Scotia,)
Toronto Dominion Texas, LLC, formerly)
known as Toronto Dominion Texas, Inc.,)
Mizuho International PLC, ABN AMRO)
Inc., Banc of America, N.A., Fleet Securities,)
Inc. (n/k/a Bank of America, N.A. Banc of)
America Securities LLC, Barclays Capital)
Inc., Barclays Bank PLC, BNY Capital)
Markets, Inc., The Bank of New York)
Company, Inc., CIBC World Markets Corp.,)
CIBC, Inc., Citibank, N.A., Citigroup Inc.,)
Citicorp USA, Inc., Citigroup Global)
Markets, Inc., Salomon Smith Barney Inc.)
(n/k/a Citigroup Global Markets, Inc.,)

Calyon Securities (USA), Inc. (f/k/a Credit)
Lyonnais Securities (USA) Inc.), Calyon)
New York Branch (successor by operation)
of law to Credit Lyonnais New York)
Branch), Deutsche Bank Alex. Brown, Inc.,)
Deutsche Bank AG, Harris Nesbitt Corp.,)
JPMorgan Chase & Co., Morgan Stanley &)
Co., Incorporated, JPMorgan Securities)
Inc., Scotia Capital (USA), Inc., Cowen &)
Co., LLC (f/k/a SG Cowen Securities)
Corporation), Societe Generale, also known)
as a French Banking Institution, Suntrust)
Capital Markets, Inc., SunTrust Bank, TD)
Securities (USA), Inc., ABN AMRO Bank)
N.V., BMO Nesbitt Burns Corp. (N/kna)
Harris Nesbitt Burns Corp.), Credit)
Lyonnais Securities (USA) Inc., SG Cowen)
Securities Corp. and Buchanan Ingersoll &)
Rooney Professional Corporation,)
)
Defendants-Appellants.)
)

Before: Hon. José A. Cabranes,
Hon. Robert D. Sack,
Hon. Peter W. Hall,
Circuit Judges.

JUDGMENT

Appeal from the United States District Court for the Southem District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the

Southern District of New York and was argued by counsel.

ON CONSIDERATION THEREOF, it is hereby ORDERED, ADJUDGED and DECREED the judgment of the District Court is REVERSED, and the cause is REMANDED to the District Court for proceedings in accordance with the opinion of this court.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, Clerk
by
/s/______________________________
Joy Fallek
Administrative Attorney

ISSUED AS MANDATE: Dec 24 2008

APPENDIX G

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

No. 03 MD 1529 (LMM)

[Filed December 22, 2003]

IN RE ADELPHIA COMMUNICATIONS CORP. SECURITIES & DERIV. LITIG.	)
This Document Relates To: 03-CV-5752	)
W.R. HUFF ASSET MANAGEMENT CO., L.L.C., as investment adviser and attorney-in-fact on behalf of certain purchasers of high yield and subordinated convertible debt securities issued by Adelphia Communications Corporation and Arahova Communications Inc. f/k/a Century Communications Corporation, Plaintiff.	)

SECOND AMENDED COMPLAINT AND JURY DEMAND

W.R. Huff Asset Management Co., L.L.C. ("Huff") is the investment adviser and attorney-in-fact on behalf of certain purchasers of high yield and subordinated convertible debt securities issued by Adelphia Communications Corporation ("Adelphia" or

the "Company") and Arahova Communications Inc. f/k/a Century Communications Corporation ("Century Communications" or "Century"). Huff, upon personal knowledge as to itself and its own acts, and upon its own knowledge and other facts obtained through an extensive investigation by Huff and its undersigned counsel, which has included, among other things, review and analysis of Adelphia's publicly-filed documents, press releases, prospectuses, and offering memoranda, as well as news articles and analysts' reports concerning Adelphia and certain of the Defendants herein, alleges and says as follows by way of Complaint against the Defendants. Huff also reviewed and relied on complaints filed against one or more Defendants by the United States Securities and Exchange Commission, Adelphia, and the Official Committee of Unsecured Creditors of Adelphia. Huff also reviewed and relied on the publicly filed indictment and superseding indictment of Defendants John Rigas, Timothy Rigas and Michael Rigas. Based on the foregoing, Huff believes that substantial, additional evidentiary support exists for the allegations herein, which will be uncovered after a reasonable opportunity for discovery.

SUMMARY OF THE ACTION

1. This is a case against, *inter alia*, underwriters, banks, auditors, law firms and other professionals who were integrally involved in the issuance and sale of Adelphia's high yield notes and subordinated convertible debt to Huff in six separate public offerings and numerous secondary market transactions since June 1999. Motivated by their desire to receive lucrative fees -- at least $188,000,000 in underwriting commissions since June 1999 alone -- these Defendants

were complicit in unprecedented acts of self-dealing by corporate insiders in a publicly-traded company. As a result, Huff purchased the securities in reliance on materially misleading and deceptive offering materials and public filings that concealed the true state of affairs at Adelphia.

2. Huff was completely unaware that Adelphia, purported to be the Country's sixth largest cable operator -- and the Rigas family who founded and controlled it -- had entered into multi-billion dollar transactions for the Rigases' own benefit that had created multi-billion dollar liabilities on the part of Adelphia with no benefit to the Company. These facts were never disclosed in the public disclosures, financial statements, registration statements or prospectuses disseminated by the Defendants on which Huff actually relied. Defendants similarly failed to disclose to Huff that the Rigas Family had purchased securities in Adelphia with funds borrowed by the Company, and made direct misstatements to Huff about the source and use of these funds when Huff made inquiries about them. Finally, Adelphia and its underwriters, banks, auditors, lawyers and other professionals concealed the fact that Adelphia committed numerous violations of covenants contained in the indenture agreements governing the debt securities it issued to the public, which meant that Adelphia lacked the authority to make at least four of the public offerings out of which Huff purchased bonds.

3. Had the true facts been disclosed -- about the Rigases' self-dealing; about the Company's actual earnings, debt and liabilities; about its flagrant breach of its indenture covenants -- Adelphia would never have been able to complete the public offerings it made

since June 1999 -- and certainly not at the prices Huff paid.

4. Before making the decision to invest in Adelphia debt securities, Huff read and reviewed Adelphia's registration statements, prospectuses, 10-Ks, 10-Qs, 8-Ks, public filings and financial statements. Because it was purchasing debt securities -- which are extensions of credit to the Company -- Huff examined the information that Defendants made available concerning Adelphia's capital structure in order to make a judgment as to Adelphia's creditworthiness. Huff reviewed this information to determine how much of Adelphia's debt was senior to the debt securities being offered to Huff, what assets were available to support that debt, and how much equity the Company had. From Huff's perspective, the less debt that Adelphia had that was senior to its bonds, and the more equity capital that was junior to its bonds, the more attractive its bonds became as an investment. Huff also examined the indenture agreements for the debt securities offered by Adelphia to determine what covenants were contained in those agreements.

5. Huff was aware that Adelphia's business model, like those of most other companies in the cable television industry, required ongoing capital expenditures to build, maintain, upgrade and expand its cable service infrastructure. Since the Company's operations did not yet generate sufficient cash to fund these expenditures, Adelphia needed other sources of financing -- bank loans and injections of capital through the sale of debt and equity securities -- in order to continue. Consequently, Huff examined Adelphia's registration statements, prospectuses, 10-Ks, 10-Qs, 8-Ks, public filings and financial statements

to evaluate whether Adelphia could continue to obtain the liquidity that it needed to function. That evaluation included looking at how much was available for Adelphia to borrow under its bank credit facilities, as well as whether anything in Adelphia's reported financial condition and results jeopardized its ability to obtain capital infusions from the securities markets -- such as whether Adelphia had exceeded the total amount of indebtedness permitted under the bond indenture covenants, which would prevent the Company from issuing new public debt securities.

6. Based on its review of the information the Defendants chose to disclose -- which consistently generated a B+ credit rating from Standard & Poor's for Adelphia's senior unsecured debt securities -- Huff determined that Adelphia was a good investment.

7. The truth was far different. Adelphia's registration statements, prospectuses, public filings and financial statements on which Huff relied contained numerous material misrepresentations and omissions that completely undermined Huff's ability to make informed investment decisions about Adelphia's securities. These documents presented a picture of Adelphia's capital structure that was totally false: Adelphia had far more debt that was senior to the securities sold to Huff -- and, thus, had a higher priority claim to repayment out of Adelphia's assets -- and far less equity than its financial statements presented.

8. Moreover, unknown to Huff, the bank credit facilities that were represented to be available to Adelphia to provide the liquidity necessary for the Company to continue operations had been exhausted

through undisclosed borrowings made by the Rigases. In short, the Rigases used a substantial portion of the proceeds of those borrowings to purchase Adelphia securities, giving the illusion that they had injected new equity into Adelphia to enhance the Company's financial health when, in fact, they had merely created new debt for Adelphia that was senior to Huff's securities without conferring any legitimate benefit to Adelphia or the senior noteholders. Making matters even worse, Adelphia flagrantly violated indenture covenant restrictions on, inter alia, engaging in transactions with affiliate entities, making or permitting certain defined Restricted Payments, and incurring too much indebtedness, with the result that these covenants prohibited at least two of the securities offerings from which Huff purchased notes.

9. Adelphia's underwriters, banks, auditors, lawyers and other professionals connected with Adelphia's securities offerings owed duties to Huff under the securities laws to ferret out and disclose all material information concerning Adelphia -- including the rampant Rigas Family self-dealing taking place. To Huff's detriment, these entities failed to disclose the true facts concerning Adelphia's financial condition.

10. The underwriters who sold notes to Huff knew that Huff would rely on the statements contained in the registration statements, prospectuses and public filings of Adelphia in making its investment decisions. They likewise knew that Huff would be alarmed if it knew that the proceeds of its investments were being made available to the Rigases for their own personal use. The underwriters saw Adelphia as simply an opportunity to make lucrative underwriting fees, knowing that Adelphia would repeatedly seek access to

the capital markets and therefore offer underwriters a steady stream of profits -- at least $188,000,000 in underwriting fees in the last three years. The underwriters "earned" approximately $45 million of these fees from debt securities offerings in 2000 and 2001 that were made in violation of the indenture covenants for Adelphia's bonds and, therefore, never should have been made in the first place.

11. Moreover, in many cases the proceeds of the notes the underwriters issued were used to pay off loans made by the defendant banks who were *affiliated with* the underwriters. These enormous financial incentives induced the underwriters to shirk their statutorily-imposed obligation to, *inter alia*, prudently investigate the disclosures made in connection with the Adelphia securities they were selling.

12. The auditor, Deloitte & Touche LLP ("Deloitte"), similarly failed to discharge its professional obligations. Deloitte represented to Huff, through written statements contained in Adelphia's registration statements, prospectuses and public filings, that it had conducted a proper and thorough audit of Adelphia's financial statements, that it had conducted its audit in accordance with Generally Accepted Auditing Standards ("GAAS"), that the financial statements fairly presented the financial condition of Adelphia in all material respects, and that those financial statements accorded with Generally Accepted Accounting Principles ("GAAP"). In fact, the financial statements were flat-out wrong, with many line items off by billions of dollars. Given its position as the auditor for both Adelphia *and* the entities controlled by the Rigas Family -- which were improperly intertwined with Adelphia -- Deloitte

should have known of the true facts. Deloitte, nevertheless, failed to disclose in the financial statements that Adelphia and its subsidiaries were allowing the Rigas Family to access Company cash for personal use and were liable for billions of dollars of debt borrowed by the Rigas Family -- debt that was senior to the notes purchased by Huff. Deloitte failed to disclose that the Rigas Family used Adelphia as a personal piggy-bank to fund a plethora of private transactions and line the pockets of Rigas Family members.

13. The underwriters and auditors were not alone among the professionals who failed to discharge their responsibilities to ensure that Huff was provided with the material information necessary to make an informed investment decision. The registration statements and prospectuses contained expert letters and/or representations from well-known law firms -- Latham & Watkins and Buchanan Ingersoll -- indicating that the notes issued by Adelphia in several public offerings were validly issued when they were not. In fact, the securities issued in these offerings violated numerous covenants of existing debt instruments and were accordingly not validly issued and available for purchase. Had the professional underwriters, accountants and lawyers properly discharged their responsibilities, the true facts would have been made known to Huff and it would not have purchased the notes at the prices it paid, if at all.

14. Indeed, the truth about Adelphia was very different from the picture of Adelphia portrayed by the underwriters who were selling the notes and the auditors who were certifying its financial statements. For example, what were represented to be multi-

hundred million dollar equity investments by the Rigas Family (and, accordingly, sources of additional financial protection for noteholders) were, in fact, disguised senior debts because the Rigases purchased equity and other investments with funds from secured credit facilities the Company was obligated to repay. The total amount of Adelphia's debt was grossly understated, the equity capital grossly overstated, the capital structure fundamentally misrepresented, and the source and flow of funds concealed. In fact, by borrowing money to finance the Rigas Family's acquisition of Adelphia securities, Adelphia and its professionals artificially and deceptively inflated the Company's value, making it appear far more financially healthy than it actually was.

15. When the truth was finally disclosed, it precipitated: (1) an almost immediate cessation in the trading of the Company's stock; (2) criminal investigations by two separate grand juries convened by the offices of the United States Attorney for the Southern District of New York and the Middle District of Pennsylvania; (3) an investigation by the United States Securities and Exchange Commission ("SEC"); and (4) the resignations of John J. Rigas, the Chief Executive Officer, Timothy J. Rigas, the Chief Financial Officer, and three other members of the Rigas Family from officer and director positions with the company. The SEC also broadened its investigation to examine Deloitte's role in the scandal, as well as what Citigroup, Inc. and Salomon Smith Barney Inc. knew about Adelphia's financial condition before underwriting various offerings of Adelphia securities. By Friday, May 24, 2002, The Wall Street Journal reported that investigators were calling Adelphia "one of the largest cases of inside dealings ever seen at a

public company." Nevertheless, disclosure of the truth did not precipitate an immediate cessation of the wrongful activities, as they continued.

16. The shock to the market from the disclosure of the truth was so severe as to initially drive the price of Adelphia's stock down by 70% before NASDAQ suspended trading on May 15, 2002. After trading resumed, the stock continued to plummet, closing at $.70 a share on the last trading day before NASDAQ de-listed the stock in early June due to Adelphia's failure to file its 10-K for the year ending December 31, 2001. By June 7, 2002, Adelphia stock - which had traded as high as 86.56 in May 1999 -- closed in over-the-counter trading at 30 cents, after falling as low as 13 cents.

17. The Company has also dropped any pretense that the public filings relied upon by Huff were materially complete and accurate. To the contrary, Adelphia has already released preliminary restated financial results for the fiscal years ended December 31, 2000 and December 31, 2001, and has announced it intends to restate its consolidated balance sheets and financial statements and figures for 1999, 2000, 2001 and possibly other periods. This announcement constitutes an admission by Adelphia that the balance sheets and financial statements it issued for these periods are materially false, misleading and incomplete. By June 10, with evidence of rampant financial irregularities at Adelphia mounting, Adelphia fired Deloitte & Touche as its auditor.

18. New disclosures of wrongdoing continue with alarming frequency. Adelphia inflated its subscriber count, overstated its capital expenditures, improperly

capitalized labor expenses and inflated its earnings through phony payments from digital converter box vendors for "marketing support." All of this occurred under the watchful eye of the auditors, underwriters, banks, lawyers and other professionals whose duty it was to uncover and disclose such fraudulent activity.

19. This Complaint seeks to recover damages from (1) Deloitte, at all relevant times Adelphia's auditors, (2) the underwriters for each of Adelphia's public offerings of high yield debt securities since June 7, 1999, (3) the banks who acted as statutory underwriters, (4) the attorneys who rendered expert legal opinions in connection with those offerings and worked for the Company or the underwriters, and (5) members of the Rigas Family who at relevant times held positions as officers and directors or Adelphia. These defendants all had a primary role in the issuance of notes pursuant to registration statements and prospectuses that were materially false and misleading. Specifically, they misrepresented and/or failed to disclose, *inter alia*, the following material information:

- Adelphia and its subsidiaries were liable for at least ***$3.1 billion*** in so-called "off balance sheet" loans taken by entities controlled by the Rigas Family.

- The financial statements for 1999, 2000 and 2001 were false and must be restated.

- The Company overstated the number of its cable television subscribers by as many as 500,000 subscribers.

- The Company falsely overstated the amount of money Adelphia spent to upgrade its cable systems.

- Adelphia overstated its earnings through a host of accounting gimmicks, including (1) phony payments from digital converter box vendors for "marketing support" that in reality were merely rebates on amounts paid by Adelphia for the converter boxes; (2) failing to reduce earnings by the decline in value of securities that Adelphia had accepted as payment for services to certain interactive cable service providers; (3) understating amounts paid to television programming providers; (4) improperly capitalizing labor expenses; and (5) improperly recognizing revenue from deferred billing arrangements with customers.

- Several Adelphia bond offerings represented to be valid were, in fact, issued in violation of indenture covenants, including, *inter alia*, covenant restrictions on the amount of overall debt that Adelphia could carry, the making and permitting of certain defined Restricted Payments, and affiliate transactions.

- The Rigas Family used substantial portions of the proceeds of the loans guaranteed by Adelphia and/or its subsidiaries to purchase $1.4 billion of Adelphia stock and debt securities, as well as to fund the Rigas Family's acquisition of numerous other assets for its own use and benefit.

- Adelphia implemented a cash management system ("CMS") that was the very antithesis of reasonable corporate controls on the use of corporate cash. In fact, the CMS was a vehicle for commingling the funds of Adelphia, its subsidiaries and the affiliates controlled by the Rigas Family. Rigas Family members took advances from the CMS for personal purposes at will.

- Adelphia funded the Rigas Family's acquisition of the Buffalo Sabres professional hockey franchise, and periodically "recapitalized" -- through an infusion of hundreds of millions of dollars -- the Rigas Family entity that held the ownership interest.

- The Rigas Family used $12 million in Adelphia corporate funds to build themselves a golf course near Coudersport, Pennsylvania.

- Adelphia paid $25 million in corporate funds for timber rights to a parcel of land owned by the Rigas Family near Coudersport, Pennsylvania.

- The Rigas Family compelled Adelphia to make over $1.3 million in payments to Praxis Capital Ventures in order to cover the salary that defendant Peter Venetis, John Rigas's son-in-law and a former Adelphia director, was drawing from that nearly-bankrupt entity.

- John Rigas withdrew $1 million a month from Adelphia for his own personal use at the same time that the Company publicly represented

that his total compensation from the Company was less than $2 million a year.

20. Adelphia also generated "phantom" earnings in the form of management fees it was supposed to receive from the Rigas Family companies it managed. These so-called Managed Entities often paid these fees using funds taken from the CMS or borrowed under the co-borrowing facilities, thereby paying the fees with Adelphia's money. In some cases, the Managed Entities simply failed to pay the management fees at all. All of this contributed to the deceptive overstatement of Adelphia's revenues, gross margins and Earnings Before Interest, Taxes, Depreciation and Amortization ("EBITDA"), and understatement of the Company's net loss.

21. The underwriters, banks, auditors, lawyers and other professionals knew that Huff, on behalf of its clients, purchased Adelphia debt securities in direct, eyeball reliance on the registration statements, prospectuses, 10-Ks, 10-Qs and 8-Ks filed with the SEC -- statements that prominently featured each of their names -- as well as other public filings for which these professionals bear responsibility. They also knew that Adelphia's and Century's bonds were traded on the open market in reliance on Adelphia's public SEC filings that contained material misrepresentations and omissions. The effect of these material misrepresentations and omissions, *inter alia*, was to: (1) give Huff a materially false account of the Company's capital structure and financial condition by fundamentally misrepresenting the amount of liabilities on Adelphia's balance sheet; (2) give Huff false information about the amount of bank debt that was effectively senior in repayment priority to the debt

securities Adelphia offered to the public; (3) mislead Huff into believing that Adelphia's founding and controlling owners were pumping hundreds of millions of dollars of their own money into Adelphia as new capital; (4) falsely lead Huff to believe that Adelphia was prudently managing its cash and other assets and that there were reasonable internal controls in place at Adelphia, and (5) as to several of the bond offerings, falsely represent that the issuance of the bonds was valid. Had it not been for the materially false and misleading statements and omissions contained in Adelphia's publicly-filed statements, there would not have been a market for any of the securities at issue.

Background

22. Huff manages bond portfolios for charities, endowments, foundations, state and local pension funds (teachers, police, firefighters, and municipal and state employees), employee pension plans formed under the Employee Retirement Income Security Act of 1976 ("ERISA"), and other institutions and investors. Among the investment management activities that it performs for its clients, Huff purchases, holds and sells high yield corporate bonds, like those issued by Adelphia. Huff's clients depend on the returns from these investments to fund their beneficiaries' needs.

23. Between June 7, 1999 and March 27, 2002, Huff purchased on behalf of its clients high yield debt securities issued by Adelphia and Century. The investment decisions to purchase those securities were at all times made by Huff, which exercises investment discretion with respect to its clients' accounts. The Underwriter Defendants (defined below) sold these

securities to Huff directly through six public offerings. Huff also purchased Adelphia and Century debt securities in the secondary market during this time period.

24. If Adelphia's financial statements were accurate, Adelphia would be the Country's sixth largest provider of cable television services, with a purported total of approximately 5.8 million subscribers. Adelphia is a holding company and accordingly conducts its operations through various subsidiaries, including Century, Olympus Communications ("Olympus") and FrontierVision Holdings ("FrontierVision"). Adelphia provides telecommunications services over broadband networks. As of December 31, 2000, Adelphia claimed to own or manage cable television systems wit broadband networks that passed in front of more than nine million homes and served approximately 5.7 million basic cable subscribers. Adelphia was founded by defendant John J. Rigas ("Rigas") and, until his recent resignation, was dominated and controlled by Rigas and his family (the "Rigases" or the "Rigas Family"). Although the Rigas Family owned only 20% of Adelphia's outstanding common stock, it possessed shares with super-majority voting rights that enabled it to control over 60% of the voting power of Adelphia's outstanding shares, as well as eight of nine seats on Adelphia's board of directors. In addition, members of the Rigas Family occupied five of the top management positions in the Company. Especially given the enormous power and control exercised by the Rigas Family, the underwriters, auditors, lawyers and other professionals had a duty to ensure that self-dealing and conflicts of interest were adequately disclosed, that the finances of the Company were safeguarded,

and that the Company's financial condition was fully and adequately disclosed to Huff.

25. Huff made its purchases of, and continued to hold, Adelphia and Century securities in eyeball reliance on the financial data and representations made in the registration statements and prospectuses for each offering of high yield securities, as well as in Adelphia's 10-Ks, 10-Qs, 8-Ks, prospectuses for the Company's offerings of equity securities and subordinated convertible notes, and other public filings with the SEC.

26. In the course of making its purchases of Adelphia securities, Huff relied on the underwriters, banks, auditors, lawyers and other professionals to do their jobs as "watchdogs" of the Company. Each of these defendants prepared, reviewed, signed and/or consented to the use of its name in the registration statements, prospectuses and other filings on which Huff relied. By doing so, these defendants represented to Huff that they had performed the requisite level of due diligence, conformed to applicable professional standards to which they were subject, and faithfully discharged their obligations in making the statements that induced Huff to invest in Adelphia securities.

27. In addition to their interest in Adelphia, the Rigas Family controlled a number of other entities engaged in a smorgasbord of investment and business activity. Some of these entities were engaged in the same business as Adelphia -- providing cable television services. The cable television entities outside of Adelphia controlled by the Rigas Family were euphemistically called the "Managed Entities" in the registration statements and other filings with the SEC

to focus attention on the fact that they were managed by Adelphia in exchange for a management fee. In fact, these Managed Entities -- along with other entities controlled by the Rigas Family but not engaged in the cable business (the "Rigas Entities") -- were used by the Rigas Family to "manage" Adelphia and were used to perpetrate a massive fraud -- a fraud in which all of the other Defendants failed to disclose.

28. None of the underwriters, banks, auditors, lawyers, or other professionals came forward with any information about the widespread abuses at the Company. Nevertheless, the fraud eventually became too big for the cover-up to continue. Consequently, on March 27, 2002, senior members of Adelphia's management, including defendant Timothy J. Rigas, then Adelphia's chief financial officer, and James Brown, then Adelphia's VP of Finance, revealed for the first time in a telephone conference call that the Managed Entities had borrowed what was at that time reported to be approximately $2.3 billion as of December 31, 2001 under co-borrowing arrangements essentially guaranteed by Adelphia and its subsidiaries. However, even in that March 27 conference call, Adelphia was not forthcoming, as later revelations showed. For example, within several weeks, the amount of Adelphia's off-balance sheet debt ballooned to $2.5 billion as of December 31, 2001 and $3.1 billion as of April 30, 2002.

29. During the March 27 call, Timothy Rigas acknowledged that the amount of these borrowings had not been previously disclosed or included as part of Adelphia's total debt on its audited consolidated balance sheet or other financial statements. Moreover, Adelphia also revealed for the first time that the

Rigases had used hundreds of millions of dollars of the proceeds from these co-borrowing arrangements to fund their purchases of Adelphia stock and convertible subordinated notes. In other words, the Rigas Family used money loaned by Adelphia's banks -- and effectively guaranteed by Adelphia -- to buy Adelphia's equity and debt securities. The result was a massive, undisclosed margin loan for which the Company was on the hook, but from which the Company received no legitimate business benefit.

30. In a press release also issued on March 27, seeking to calm the storm in the markets Adelphia's disclosure provoked, the Company concealed the fact that the Rigas Family lacked the funds available to repay the loans. Instead, Adelphia misleadingly asserted that it "expect[ed] the Managed Entities to repay their borrowings in the ordinary course," and that the Company did "not expect that it will need to repay the amounts borrowed by the Managed Entities." On the March 27 call, Adelphia's representatives echoed these representations in a calculated effort to give analysts and investors a false sense of security. Of course, an immediate concern of Huff's was whether the Managed Entities had sufficient assets to cover their borrowings, or whether Adelphia would have to take up the slack, dramatically increasing Adelphia's debt and bringing the Company's liquidity into question. Reflecting these same concerns, participants in the March 27 call asked whether the Managed Entities' ownership of 300,000 cable subscribers was a sufficient asset base to support the loans that had been taken. In response, Messrs. Rigas and Brown falsely asserted that "there are substantial other assets that back those [debts] beyond the cable systems that are owned there," and that "[w]e have very strong interest

coverage, very strong ability to kind of repay." Indeed, they assured investors that Adelphia was "very comfortable" that the loans were covered. Messrs. Rigas and Brown promised to provide "more clarity" in the future on the issue of the Managed Entities' ability to repay the co-borrowing facilities. However, the more "clarity" that Adelphia provided, the more it became apparent that the loans could not be repaid and that a massive scandal of corporate insider self-dealing and deception had been concealed by the underwriters, auditors, lawyers and other professionals who were involved in the offerings of Adelphia debt securities.

31. The March 27 announcement immediately caused an uproar in the securities markets. The market responded to these revelations by devaluing Adelphia's bonds, notes and stock. On May 14, 2002, the day that NASDAQ suspended trading, Adelphia's stock -- which peaked at $86.56 in May 1999 -- closed at $5.70, down over 70% since the March 27 announcement. On May 31, 2002, the last trading day before Adelphia's de-listing by NASDAQ, the stock closed at $.70 a share. On June 7, 2002, the stock traded over the counter at prices as low as $.13 a share, closing at $.30.

32. Following the March 27 announcement, the Company failed to file its Form 10-K for the year ending December 31, 2001. Its purported reason was that it needed to investigate the accuracy and completeness of its prior 10-K filings - filings that Deloitte had repeatedly certified as fairly presenting the Company's condition in accordance with GAAP. Adelphia's failure to file its 10-K compelled NASDAQ to suspend trading in Adelphia stock and, ultimately, de-list the stock. The Company has since confirmed

that investigations are now under way by grand juries in the Southern District of New York and the Middle District of Pennsylvania, as well as by the SEC. With the pressure mounting, John and Timothy Rigas finally resigned from their management positions.

33. The Rigases and the Managed Entities lack the ability to repay the amounts borrowed under the co-borrowing facilities, a fact which neither Adelphia, the underwriters nor the auditors ever disclosed. The Managed Entities' "substantial other assets" turned out to be equity securities and convertible subordinated notes that the Rigases had purchased with the Company's debt, the value of which dropped precipitously upon the disclosure of Adelphia's myriad misrepresentations of its financial condition and concealment of management misconduct. Shockingly, these "substantial other assets," to which Messrs. Rigas and Brown referred, were at the heart of the scandal itself.

34. More details about the extent of the improper dealings between Adelphia and the Rigas Family emerged, as the Company reluctantly began to disclose the truth about the Rigases' abuse of their corporate positions. Specifically, Adelphia disclosed that, besides purchasing Adelphia securities, the Rigases had used millions of dollars of Adelphia's cash and credit -- by means of carefully-crafted co-borrowing arrangements -- to, *inter alia*, finance the family's furniture business (Eleni Interiors), construct a golf course (The Golf Club at Wending Creek Farms) and acquire other assets for the benefit of the family, including $25 million in timber rights and an ownership interest in the Buffalo Sabres professional hockey team. Furthermore, Adelphia disclosed that its management had

implemented a "cash management system," the CMS, that was, in fact, a means of circumventing corporate controls -- to the extent they even existed -- on the use of corporate funds that enabled the Rigas Family to withdraw millions from the Company with the same ease as withdrawing money from an automatic teller machine. Indeed, Adelphia's recent disclosures suggest that a total breakdown of internal corporate controls occurred at the Company.

35. The pattern of misappropriation of corporate funds and misuse of the Rigases' official positions revealed by these belated disclosures is so extensive that Deloitte -- especially in light of its dual role as auditors for Adelphia and the Managed Entities -- should have been aware of the misconduct. Nor should the underwriters have been unaware of the Rigas Family's misdeeds, since even minimal due diligence in connection with Adelphia's public offerings of securities should have, and would have, revealed the misconduct.

36. On May 2, 2002, Adelphia issued a press release which revealed that it had reached a "tentative conclusion" that Deloitte had certified Adelphia financial statements that misrepresented its true debt liability on its balance sheets by at least $1.6 billion (this tentative figure would balloon to $2.5 billion just a few weeks later). After implementing a proper accounting treatment of the co-borrowing arrangements, Adelphia admitted that it "expects [such treatment] will result in a restatement of [Deloitte's previously certified] financial statements for 1999 and 2000 and interim financial statements for 2001." The May 2 press release further elaborated

Adelphia's conclusions about the inaccuracy of Deloitte's accounting treatment:

> The Company has tentatively concluded that it should reflect borrowings and related interest expense under certain co-borrowing arrangements associated with amounts payable directly or indirectly by certain Rigas family owned entities, primarily incurred in connection with other Rigas entities which purchased Adelphia securities, as liabilities in its consolidated financial statements, with a corresponding decrease in shareholders' equity. These borrowings approximated $1.6 billion as of December 31, 2001. They were approximately $1.2 billion as of December 31, 2000 and $700 million as of December 31, 1999.

37. On May 15, 2002, Adelphia and its subsidiaries failed to make $38.3 million dollars in payments of interest on two of its bond issues. The Company also missed a multi-million dollar dividend payment on a series of preferred shares. Unbelievably, under the watchful eye of the auditors, the Rigas Family after March 27 extracted an additional $174 million of cash from Adelphia to pay off margin loans for its securities purchases.

38. Then, on May 23, 2002, Adelphia issued a press release announcing that the independent directors had taken control of Adelphia from the Rigas Family. Under the terms of the agreement, the Rigases purportedly agreed to return to the Company some of the assets that they had acquired with Adelphia's credit, in an attempt to partially offset the debts that the family had run up on the Company's credit lines.

James and Michael Rigas, following the path taken by their father and brother, John and Timothy, finally resigned as officers of the Company.

39. Reflecting the continuing disarray of the Company's internal accounting practices, in the May 23 press release, Adelphia revised upward yet again -- by $900 million -- its "tentative" conclusion as to the degree to which its financial statements -- purportedly audited and certified by Deloitte -- had understated the true amount of the Company's consolidated debt. Specifically, Adelphia announced that it had "tentatively concluded that it should increase to approximately $2.5 billion the amount of indebtedness to be included in its consolidated financial statements, as of December 31, 2001, to reflect the full amount of principal borrowings and interest expense by entities affiliated with the Rigas family under certain co-borrowing arrangements for which the Company is jointly and severally liable." The amount announced represented a nearly $1 billion increase over the Company's May 2 "tentative conclusion" that the amount borrowed under the co-borrowing facilities totaled $1.6 billion as of December 31, 2001. In the May 23 press release, Adelphia also announced that it believed that "at April 30, 2002, the total amount of co-borrowings by entities affiliated with the Rigas family for which Adelphia is jointly and severally liable was approximately $3.1 billion."

40. In an extremely unusual move, as Adelphia was telling the markets that it was continuing the process of restating its blatantly false financial statements and figures for 1999, 2000, 2001, and possibly other periods, Deloitte "suspended" its audit of the Company. Because the accounting firm's

credibility had been compromised by the steady stream of increasingly more onerous disclosures from the Company of Deloitte's appalling professional failures in certifying financial statements that were inaccurate, Adelphia ultimately responded to the suspension by firing Deloitte. Notably, Deloitte's activities in connection with Adelphia are now the subject of an SEC inquiry.

41. Adelphia issued its senior notes pursuant to indenture agreements that contained various covenants designed to protect investors in the debt securities. Included among these provisions was a covenant that limited the total indebtedness that Adelphia could incur to 8.75 x EBITDA. Once Adelphia's debt exceeded this threshold, it could not take out new loans or issue additional debt securities to the public, absent certain exceptions not available to the Company.

42. In addition, the indentures contained a covenant that imposed restrictions on transactions between Adelphia or its subsidiaries, on the one hand, and the Managed Entities or Rigas Entities, on the other. Such transactions were prohibited, if the terms would be less favorable than those Adelphia could obtain in an arms-length transaction with someone other than an affiliate. Indeed, this covenant required Adelphia to obtain Board approval, as well as a fairness opinion, for the very transactions that it routinely entered into with the Managed Entities without these protections. The covenants also limited Adelphia's ability to make any direct or indirect acquisition of Adelphia Indebtedness subordinate in right of payment to the notes, or of shares of Adelphia

capital stock, except under certain conditions not here applicable.

43. Essentially admitting that it had flouted these covenants for years despite its contrary representations to Huff, Adelphia announced in its May 23 press release that it was in the process of "determining whether it is in compliance with the debt incurrence tests contained in its public indentures" and that it "believes that it is not in compliance with certain other covenants contained in its public indentures, in particular, restrictions on the Company's ability to enter into transactions with affiliates without obtaining the requisite approval of the independent members of the Board of Directors."

44. These disclosures by Adelphia call into question the validity of several bond issues in which Huff participated. Beginning in early 2001 -- and possibly as early as 2000 -- Adelphia's total indebtedness exceeded the 8.75 x EBITDA threshold. As a result, Adelphia's offerings of high yield debt securities in June and October 2001 -- and the September 2000 and January 2001 offerings as well -- out of which Huff purchased a substantial amount of notes, breached the covenants in the then-existing indentures, and, thus, the notes in these offerings were not valid and never should have been issued. In addition, Adelphia committed numerous other covenant violations, including breaches of the covenants against affiliate transactions and against restricted payments to subsidiaries, that undermined the validity of the note offerings.

45. The underwriters, banks, auditors, lawyers and other professionals -- who were tasked with

preventing Adelphia's breach of its indenture covenants and its concealment of those very breaches -- failed to disclose that, on account of the co-borrowing facilities, Adelphia issued notes in excess of its permissible level of indebtedness and engaged in patently unfair related-party transactions without the proper approval of the Board of Directors. Nevertheless, the underwriters, auditors, lawyers and other professionals signed off on offering documents which contained material misrepresentations as to covenant compliance. Incredibly, it appears the Board may have approved some of these transactions with input from the other professional Defendants. Meanwhile, the professionals reaped hundreds of millions of dollars in fees in connection with offerings that breached Adelphia's indenture covenants and should not have been made.

46. Adelphia's banks also ignored Adelphia's breaches of its public debt indentures because it was in the banks' interest for Adelphia to continue to tap the high yield credit markets, convertible markets and equity markets, using the banks' underwriting arms and generating lucrative fees as well as huge proceeds to repay amounts the banks had lent to Adelphia, its subsidiaries and the Managed Entities. Indeed, some of Adelphia's banks even profited from the Rigases' purchases of Adelphia equity and subordinated debt securities with funds borrowed under the co-borrowing facilities, since Adelphia used the proceeds of those purchases to pay off other loans those banks had extended to Adelphia subsidiaries.

47. On May 16, 2002, Adelphia's Board of Directors finally and at long last authorized a special committee ("Special Committee" or "Committee") to

investigate the web of related company dealings launched and maintained through the concerted actions and/or willful ignorance of the Defendants that were previously undisclosed to the public -- but known to insiders.

48. The Special Committee's investigation into the issues raised by the March 27 disclosures led to the filing of a Form 8-K with the SEC on May 24, 2002 (the "May 2002 8-K") that purported to disclose details within the Company's knowledge about the Rigas Family's abuse of its control over Adelphia.

49. However, the disclosures in the May 2002 8-K are heavily qualified. The qualifications *alone* reveal both the presumptively misleading nature of Adelphia's prior public statements and the complicity of the Defendants, including Deloitte -- the then auditor for Adelphia, its subsidiaries *and* the Rigas Entities -- who gave their imprimatur to those statements. For example, the May 2002 8-K provides that:

> [t]he Special Committee is continuing its investigation. This investigation may result in supplementing or revising information contained in this Form 8-K. In addition, *various sources have indicated that there may be other relationships and transactions between the Company and its subsidiaries, on the one hand, and Rigas Persons and Entities, on the other hand*. Accordingly, this Form 8-K may be supplemented or revised to reflect these other relationships and transactions.

(emphasis added).

50. The May 2002 8-K also states that:

> [a]ll of the financial information contained in this Form 8-K is unaudited. The Company has announced that it expects to restate its financial statements for the years ended December 31, 1999 and 2000, and its interim financial statements for 2001 and possibly other periods.

According to GAAP, financial statements are to be restated only if the error involved is material and if the error was in existence at the time the financial statements were issued.

51. Furthermore, while the May 2002 8-K provides a disturbing glimpse of what actually went on behind the scenes at Adelphia, it is itself the product of an incomplete and woefully inadequate investigation by the Special Committee. For example, since their resignation from the Company *en masse*,

> *The Rigas Parties have refused to review, or provide information for, this Form 8-K.* In addition, certain other current and former officers, executives and employees of the Company have been unavailable to review and provide information for this Form 8-K. Accordingly, the information in this Form 8-K may be incomplete and may be revised or supplemented by the Company.

(emphasis added). Thus, even now, the Special Committee cannot stand behind the veracity and completeness of its already-disturbing disclosures.

52. Indeed, the Special Committee's warnings confirm that the assumptions required to be made by the recipient in order to make any public disclosure of corporate information meaningful could not, and still cannot, be made in the case of Adelphia. The May 2002 8-K cautions that:

> Unless expressly noted otherwise, you should NOT [emphasis in original] assume that:
>
> - the transactions discussed herein were presented to or approved by the Board of Directors or the independent or disinterested directors of the Board of Directors or, if so approved, if such approval was based on accurate complete information; and/or
>
> - the financial and other terms of the transactions discussed in this Form 8-K between the Company and its subsidiaries, on the one hand, and Rigas Persons and Entities, on the other hand, were the product of arm's-length negotiations between the parties and, accordingly, you should not assume that these terms are as favorable to the Company and its subsidiaries as terms that these parties could have negotiated with independent third parties.

53. Nevertheless, the May 2002 8-K documents a pattern of corporate fraud and abuse so pervasive that it could not have escaped the attention of the underwriters, auditors, and lawyers who were charged with ferreting out precisely this kind of deceptive conduct.

54. Among the Special Committee's conclusions in the May 2002 8-K are the following:

- The Rigases paid for purchases of Adelphia securities through a series of bookkeeping entries that, when combined with Defendants' selective disclosure practices, had the effect of deceptively and artificially inflating shareholder equity while at the same time artificially decreasing Adelphia's total consolidated debt;

- Adelphia and its subsidiaries commingled funds with the Rigas Entities and the Managed Entities by means of the CMS;

- The Rigas Family withdrew hundreds of millions of dollars from the CMS to fund the purchase of various assets for their own personal use;

- Managed Entities either failed to pay Adelphia management fees to which it was entitled, or paid these fees using corporate funds taken from the CMS, which had the effect of artificially inflating Adelphia's earnings;

- Adelphia paid millions of dollars to entities controlled by the Rigas Family for goods and services without any competitive bidding;

- Adelphia funded various pet projects of the Rigas Family, including the golf course, Peter Venetis's venture capital firm, Ellen Rigas's filmmaking career, and the Rigas Family's ownership of the Buffalo Sabres.

55. On June 6, 2002, the Company filed an 8-K (the "June 6, 2002 8-K") announcing the appointment of two new executives. In the June 6, 2002 8-K, the Company also informed the SEC that it had concluded, because some of the Individual Defendants had deliberately breached their fiduciary duties to the Company during their tenure as Adelphia officers and directors, the Company would no longer pay these Individual Defendants' legal fees and costs incurred in defending lawsuits filed against them. As stated therein:

> The Board of Directors, based on the recommendation of the Special Committee and consultation with counsel to the Special Committee, has determined that each of John Rigas, Timothy Rigas, Michael Rigas, Peter Venetis and James Brown deliberately breached his duty to the Company and/or its shareholders. As a result, under the Company's bylaws, these individuals are no longer entitled to have the expenses (including the fees and expenses of their counsel) incurred in defending actions against them advanced to them by the Company.

56. On June 10, 2002, Adelphia filed yet another 8-K (the June 10, 2002 8-K) detailing additional fraudulent misrepresentations that had been made in reports (including financial statements Deloitte had audited) of the Company's financial results. In this documents, the Company announced that on June 9, 2002 it had "terminated the engagement of Deloitte & Touche LLP as the Company's independent accountants."

57. Furthermore, in the June 10, 2002 8-K, Adelphia reported to the SEC that "[b]ased on the preliminary results of the investigation by the Special Committee, current management of the Company has determined that it will make certain adjustments to its results of operations for 2000 and 2001. . . ." These "adjustments" consisted of reductions of hundreds of millions of dollars in previously-reported EBITDA -- from $1,202,000,000 (which figure had been audited by Deloitte) to $1,042,000,000 for the year ended December 31, 2000, and from $1,409,000,000 to $1,199,000,000 for the year ended December 31, 2001.

58. According to the June 10, 2002 8-K, Adelphia's previously-reported EBITDA was inflated by at least the following six fraudulent accounting practices:

- Adelphia conspired with its two main vendors of digital converter boxes to raise the price of each box by $26. Thereafter, for each digital converter box Adelphia purchased, the vendors rebated $26 of the purchase price back to Adelphia for "marketing support." Adelphia improperly treated these payments as a reduction of operating expenses, and treated the payments for the boxes as capital expenditures, resulting in overstatements of EBITDA by $54 million in 2001 and $37 million in 2000.

- Adelphia accepted financial instruments as payment from certain interactive cable service providers. When the value of these instruments subsequently declined, Adelphia did not reflect their reduction in value in reported EBITDA,

resulting in overstatements of EBITDA by $52 million in 2001 and $28 million in 2000.

- Adelphia improperly accounted for the cost of certain contracts for television programming, resulting in overstatements of EBITDA by $42 million in 2001 and $23 million in 2000.

- The Company improperly capitalized labor expenses, resulting in overstatements of EBITDA by approximately $40 million in 2001 and 2000.

- The Company failed to properly account for transactions with its (former) subsidiary, Adelphia Business Solutions, the Rigas Entities and other parties, resulting in overstatements of EBITDA by approximately $18 million in 2001 and $19 million in 2000.

- Adelphia improperly recognized revenue from subscribers under deferred billing arrangements, resulting in overstatements of EBITDA by approximately $4 million in 2001 and $13 million in 2000.

59. Finally, in the June 10, 2002 8-K, Adelphia reported that its current management believes the Rigas Family routinely provided "unreliable" information to the investing public. Specifically, Adelphia now

- believes that the public information provided by prior management on other matters of interest to investors, such as the Company's rebuild percentage (the percentage of the Company's

cable television systems that the Company believes have been upgraded to current standards), was unreliable, and the Company intends to correct the information, where material, as current management develops information it considers reliable.

60. None of these activities was disclosed to Huff by any of the Defendants.

61. In light of the revelations that have emerged since March 27, 2002, numerous material misrepresentations and omissions in Adelphia's registration statements, prospectuses and SEC public filings since June 7, 1999 have become apparent. Adelphia, as well as the underwriters, auditors, lawyers and other defendants who prepared, reviewed, signed and consented to have their names appear in these documents failed to disclose that: (1) the Managed Entities and the Rigases had borrowed as much as $2.5 billion under the so-called "co-borrowing" facilities as of December 31, 2001, for which Adelphia and its subsidiaries are jointly and severally liable to repay; (2) the Rigases used a substantial portion of the proceeds from those borrowings to purchase equity and/or debt securities in Adelphia and its subsidiaries, as well as to acquire numerous other assets for the their sole benefit and use; (3) the Rigases and the Managed Entities lacked the ability to repay the borrowings under the co-borrowing facilities, thereby leaving Adelphia and its subsidiaries straining to repay those loans, and further diminishing the company's liquidity; and (4) that, as a result of the Managed Entities' use of the co-borrowing facilities, Adelphia was in breach of the restrictions on indebtedness, restricted payments and affiliate

transactions set forth in the indenture agreements for the debt securities it had issued to the public. All of this withheld information was and would have been highly material to Huff and other purchasers of high yield debt securities issued by Adelphia and its subsidiaries.

62. Following the publication of the June 10, 2002 10-K, the value of the Adelphia and Century notes purchased by Huff plummeted. For example, the Company's 10.875% notes maturing in 2010 fell from a bid of 97 cents on March 27, 2002 to 67 cents on May 16 and continued to decline after June 10, 2002. Adelphia's bond rating declined to BB- on March 28, 2002, to CCC+ on April 22, 2002, and to C- on May 20, 2002. The prices and ratings of the other bonds issues by Adelphia similarly dropped in response to the disclosures. Indeed, Adelphia's 6% Convertible Subordinated Notes declined to just over 10 cents after June 10, 2002. Adelphia itself fell into a death spiral. Unable to obtain the liquidity necessary to keep its operations going, Adelphia filed for Chapter 11 protection on June 25, 2002.

63. On July 24, 2002, Defendants John Rigas, Timothy Rigas and Michael Rigas were arrested and charged with, among other things, securities fraud. John, Timothy and Michael Rigas were subsequently indicted on securities fraud and other charges on September 23, 2002.

JURISDICTION AND VENUE

64. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2) and 15 of the Securities Act of 1933 (the "Securities Act"), 15 U.S.C.

§§ 77k, 77l(a)(2) and 77o, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b) and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, Section 18(a) of the Exchange Act, 15 U.S.C. § 78r, and Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a).

65. This Court has federal question jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1337, Section 22 of the Securities Act, 15 U.S.C. § 77v, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

66. Venue is proper in this District pursuant to Section 22 of the Securities Act and Section 27 of the Exchange Act. Many of the acts or transactions constituting violations of the Securities Act and Exchange Act alleged herein occurred in this District. In addition, a number of the Defendants transact business in this district.

67. In connection with the acts alleged in this complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

PARTIES

68. Plaintiff Huff is a limited liability company with its principal office and place of business located at 1776 On The Green, 67 Park Place, 9th Floor, Morristown, New Jersey 07960. Huff brings this action in its capacity as investment manager and attorney-in-fact for certain clients ("Beneficial Owners"), who

consist of state and local pension funds, ERISA plans, charities, endowments, foundations, and other institutions and individual investors, and on whose behalf Huff purchased and held public debt securities in Adelphia and Century Communications. As investment manager for the Beneficial Owners, Huff has investment discretion and was solely responsible for making all investment decisions with respect to transactions in Adelphia's and Century Communications' public debt securities.

69. Defendant Deloitte & Touche LLP ("Deloitte") is a Delaware limited liability partnership with a principal place of business located at 1633 Broadway, New York, New York 10019. At all relevant times, Deloitte audited the financial statements of Adelphia and Century. At all relevant times, Deloitte also served as accountants for the Rigases, the Rigas Entities and the Managed Entities.

70. Defendant Salomon Smith Barney Inc. f/k/a Smith Barney Inc. ("Salomon"), is a New York corporation with a principal place of business located at 388 Greenwich St., New York, New York 10013. Salomon, a subsidiary of defendant Citigroup, Inc., acted as a lead underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $750,000,000 6% Convertible Subordinated Notes issued January 2001;

- 17,000,000 shares of Class A Common Stock issued January 2001;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001;

- 20,000,000 units 7.5% Series E Mandatory Convertible Preferred Stock issued January 2002; and

- 40,000,000 shares of Class A Common Stock issued January 2002.

In addition, Salomon acted as an underwriter for a public offering of 30,000,000 shares of Class A Common Stock issued November 2001. Salomon also acted as a lender and Lead Arranger in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999.

71. Defendant Citibank, N.A. ("Citibank") is a national banking association with a principal place of business located at 399 Park Avenue, New York, New York 10022. Citibank, a wholly owned subsidiary of defendant Citigroup, Inc. and an affiliate of Citicorp USA, Inc., was a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000. Citibank

was also a lender and Administrative Agent in connection with a $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, Citibank, directly or indirectly through its affiliate Salomon, acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;
- $750,000,000 10 7/8% Senior Notes issued September 20, 2000; and
- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001.

72. Defendant Citicorp USA, Inc. ("Citicorp") is a corporation organized under the laws of the State of Delaware, with a principal place of business located in the State of New York. Citcorp, a wholly owned subsidiary of defendant Citigroup, Inc. and an affiliate of Citibank, was a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. In addition, Citicorp, directly or indirectly through its affiliate Salomon, acted as an underwriter for the following public offerings of Adelphia debt securities:

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001.

73. Defendant Citigroup, Inc. ("Citigroup") is a Delaware corporation with a principal place of business located at 399 Park Avenue, New York, New

York 10022. Directly or indirectly through its subsidiaries Citibank and Salomon, Citigroup acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000; and

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001.

74. Defendant Credit Suisse First Boston Corporation ("Credit Suisse") is a Delaware corporation with a principal place of business located at 11 Madison Avenue, New York, New York 10010. Credit Suisse is an investment bank that is affiliated, and under common ownership and control, with CSFB. Credit Suisse acted as a lead underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- 17,000,000 shares of Class A Common Stock issued January 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

In addition, Credit Suisse acted as an underwriter for a public offering of $1,000,000,000 of 10 1/4% Senior Notes issued June 12, 2001.

75. Defendant Credit Suisse First Boston, New York Branch ("CSFB") is a banking association organized under the laws of Switzerland, with a principal place of business located in the State of New York. CSFB, an affiliate of Credit Suisse, was a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000 and the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. CSFB was also a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999. CSFB was also a lender and Managing Agent in connection with a $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998. In addition, CSFB, directly or indirectly through its affiliate Credit Suisse, acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;
- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;
- 17,000,000 shares of Class A Common Stock issued January 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

76. Defendant Fleet Securities Inc. ("Fleet") is a New York corporation with a principal place of business located at 26 Broadway, New York, New York 10004. Fleet is an investment bank that is affiliated, and under common ownership and control, with Fleet Bank. Fleet acted as an underwriter for the following public offerings of Adelphia debt securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

Fleet acted as the "qualified independent underwriter" for pricing and conducting due diligence in connection with the October 25, 2001 offering.

77. Defendant BMO Nesbitt Burns Corp., f/k/a Nesbitt Burns Securities, Inc. ("BMO"), is a Delaware corporation with a principal place of business located at 3 Times Square, New York, New York 10036. BMO is an investment bank that is affiliated, and under common ownership and control with, Bank of Montreal. BMO acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

78. Defendant Bank of Montreal ("Bank of Montreal") is a banking association organized under the laws of Canada, with a principal place of business located in the State of Illinois. Bank of Montreal, an affiliate of BMO, was a lender and Documentation Agent in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, was a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Administrative Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. Bank of Montreal was also a lender and Managing Agent in connection with a $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, Bank of Montreal, directly or indirectly through its affiliate BMO, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

79. Defendant Banc of America Securities LLC ("Banc of America") is a Delaware limited liability company with a principal place of business located at 9 West 57th Street, New York, New York 10019. Banc of America is an investment bank that is affiliated, and under common ownership with, BOA. Banc of America acted as a lead underwriter for the following public offerings of Adelphia securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $750,000,000 6% Convertible Subordinated Notes issued January 2001;

- 17,000,000 shares of Class A Common Stock issued January 2001;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

In addition, Banc of America acted as an underwriter in connection with a public offering of 6,000,000 shares of Class A Common Stock issued October 1999.

80. Defendant Bank of America, N.A. ("BOA") is a national banking association with a principal place of business located in the State of Texas. BOA, an affiliate of Banc of America, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, was a lender and Co-Administrative Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. BOA was also a lender and Documentation Agent in connection with a $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, BOA, directly or indirectly through its affiliate Banc of America, acted as an underwriter for the following public offerings of Adelphia securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $750,000,000 6% Convertible Subordinated Notes issued January 2001;

- 17,000,000 shares of Class A Common Stock issued January 2001;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

81. Defendant BNY Capital Markets, Inc. ("BNY") is a New York corporation with a principal place of business located at One Wall Street, New York, New York 10015. BNY is an investment bank affiliated, and under common ownership and control, with BONY. BNY acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

82. Defendant Bank of New York Co., Inc. ("BONY") is a national banking association with a principal place of business located in the State of New York. BONY, an affiliate of BNY, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, was a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on

or about April 14, 2000, and a lender and Documentation Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. BONY was also a lender in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, BONY, directly or indirectly through its affiliate BNY, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;
- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and
- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

83. Defendant CIBC World Markets Corp., f/k/a CIBC Oppenheimer ("CIBC"), is a Delaware corporation with a principal place of business located at 425 Lexington Avenue, New York, New York 10017. CIBC is an investment bank affiliated, and under common ownership and control, with CI. CIBC acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

CIBC acted as the "qualified independent underwriter" for pricing and conducting due diligence with respect to the June 12, 2001 offering.

84. Defendant CIBC, Inc. ("CI") is a corporation organized under the laws of the State of Delaware, with a principal place of business located in the State of New York. CI, an affiliate of CIBC, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. CI was also a lender and Documentation Agent in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997, a lender and Managing Agent in connection with the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, CI, directly or indirectly through its affiliate CIBC, acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

85. Defendant Credit Lyonnais Securities (USA) Inc. ("Credit Lyonnais") is a New York corporation with a principal place of business located at 1301 Avenue Of The Americas, New York, New York 10019. Credit Lyonnais is an investment bank affiliated, and under common ownership and control, with CL. Credit Lyonnais acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

86. Defendant Credit Lyonnais, New York Branch ("CL") is a banking association organized under the laws of France, with a principal place of business located in the State of New York. CL, an affiliate of Credit Lyonnais, was a lender in connection with the $850 million co-borrowing facility entered into

by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999 and the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. CL was also a lender in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997, a lender and Managing Agent in connection with the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, CL, directly or indirectly through its affiliate Credit Lyonnais, acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;
- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;
- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and
- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

87. Defendant Mizuho International plc ("Mizuho") is a corporation organized under the laws of the United Kingdom with a principal place of business

located at Bracken House, One Friday Street, London EC4M 9JA, United Kingdom. Mizuho acted as an underwriter for the following public offering of Adelphia debt securities:

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

88. Defendant Scotia Capital (USA) Inc. ("Scotia Capital") is a New York corporation with a principal place of business located at One Liberty Plaza, 165 Broadway, New York, New York 10006. Scotia Capital is an investment bank affiliated, and under common ownership and control, with BNS. Scotia Capital acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

89. Defendant The Bank of Nova Scotia ("BNS") is a banking association organized under the laws of Nova Scotia, with a principal place of business located in the State of New York. BNS, an affiliate of Scotia Capital, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about

May 6, 1999, a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender, Syndication Agent, Lead Arranger and Joint Book Manager in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. BNS was also a lender and Administrative Agent in connection with the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, BNS, directly or indirectly through its affiliate Scotia Capital, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

90. Defendant SG Cowen Securities Corporation ("Cowen") is a corporation organized under the laws of the State of Delaware with a principal place of business located at 1221 Avenue of the Americas, New York, New York 10020. Cowen is an investment bank

affiliated, and under common ownership and control, with Societe Generale. Cowen acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;
- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;
- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and
- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

91. Defendant Societe Generale, S.A. ("Societe Generale") is a banking association organized under the laws of France, with a principal place of business located in the State of New York. Societe Generale, an affiliate of Cowen, was a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. Societe Generale was also a lender and Co-Syndication Agent in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, Societe Generale, directly or indirectly through its affiliate Cowen, acted as an underwriter for the following public offerings of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

92. Defendant TD Securities (USA) Inc. ("TD Securities") is a corporation organized under the laws of the State of Delaware with a principal place of business located at 31 West 52nd Street, New York, New York 10019. TD Securities is an investment bank affiliated, and under common ownership and control, with TDI. TD Securities acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

93. Defendant Toronto Dominion, Inc. ("TDI") is a corporation organized under the laws of the State of Delaware, with a principal place of business located in the State of Texas. TDI, an affiliate of TD Securities, was a lender and Syndication Agent in connection with

the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. TDI was also a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, TDI, directly or indirectly through its affiliate TD Securities, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;
- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;
- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and
- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

94. Defendant Barclay's Capital Inc. ("Barclay's") is a Connecticut corporation with a principal place of business located at 222 Broadway, New York, New York 10038. Barclay's is an investment bank affiliated, and under common ownership and control, with BB. Barclay's acted as an underwriter for the following public offering of Adelphia debt securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

95. Defendant Barclay's Bank PLC ("BB") is a banking association organized under the laws of the United Kingdom, with a principal place of business located in the State of New York. BB, an affiliate of Barclay's, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, and a lender and Arranging Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000. BB was also a lender and Managing Agent in connection with the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, BB, directly or indirectly through its affiliate Barclay's, acted as an underwriter for the following public offerings of Adelphia securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

96. Defendant PNC Capital Markets, Inc. ("PNC") is a Pennsylvania corporation with a principal place of business located at One PNC Plaza, 249 5th Avenue, Pittsburgh, Pennsylvania 15222. PNC is an investment bank affiliated, and under common ownership and control, with PNC Bank.

97. PNC acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999; and

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

98. Defendant The Royal Bank of Scotland ("The Royal Bank") is a financial institution organized under the laws of the United Kingdom with a principal place of business located at 42 St. Andrew Square, Edinburgh EH2 2YE, United Kingdom. The Royal Bank was a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. The Royal Bank also acted as an underwriter for the following public offering of Adelphia debt securities:

- $500,000,000 10 1/4% Senior Notes issued October 25, 2001.

99. Defendant Deutsche Bank Alex. Brown Inc. ("Deutsche Bank Securities") is a Delaware corporation with a principal place of business located at 280 Park Avenue, 3rd Floor, New York, New York 10017. Deutsche Bank is an investment bank affiliated, and under common ownership and control, with DBAG. Deutsche Bank Securities was a lender and Co-Syndication Agent in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. Deutsche Bank Securities also acted as an underwriter for the following public offering of Adelphia securities:

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

100. Defendant Deutsche Bank AG (f/k/a Bankers Trust Company) ("DBAG") is a banking association organized under the laws of Germany, with a principal place of business located in the State of New York. DBAG, an affiliate of Deutsche Bank, was a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. In addition, DBAG, directly or indirectly through its affiliate Deutsche Bank Securities, acted as an underwriter for the following public offerings of Adelphia securities:

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

101. Defendant J. P. Morgan Securities Inc., f/k/a Chase Securities, Inc. ("J. P. Morgan") is a Delaware corporation with a principal place of business located at 270 Park Avenue, New York, New York 10017. J. P. Morgan is an investment bank affiliated, and under common ownership and control, with Chase Bank. J. P. Morgan is the product of a merger between J. P. Morgan Securities Inc. and Chase Securities Inc. ("Chase Securities"). As such, J. P. Morgan is a successor in interest to both of those companies. Chase Securities acted as an underwriter for the following public offerings of Adelphia debt securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

In addition, J. P. Morgan acted as an underwriter for the following public offering of Adelphia securities:

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

102. Defendant JP Morgan Chase & Co. (f/k/a Chase Manhattan Corp.) ("Chase Bank") is a national banking association with a principal place of business located in the State of New York. Chase Bank, a parent and affiliate of J. P. Morgan and Chase Securities, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, a lender and Co-Administrative Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Managing Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. Chase Bank was also a lender and Administrative Agent in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries

on or about December 3, 1999. In addition, Chase Bank, directly or indirectly through its affiliates J. P. Morgan and Chase Securities, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 9 3/8% Senior Notes issued November 16, 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001;

- $1,000,000,000 10 1/4% Senior Notes issued June 12, 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

103. Defendant ABN AMRO Incorporated ("ABN AMRO") is a New York corporation with a principal place of business located at 55 East 52nd Street, 36th Floor, New York, New York 10055. ABN AMRO is an investment bank affiliated, and under common ownership and control, with ABN AMRO Bank. ABN AMRO acted as an underwriter for the following public offering of Adelphia debt securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

104. Defendant ABN AMRO Bank, N.V. ("ABN AMRO Bank") is a banking association organized under the laws of The Netherlands, with a principal place of business located in the State of Illinois. ABN

AMRO Bank, a parent and affiliate of ABN AMRO, was a lender in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, and a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000. ABN AMRO Bank was also a lender in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997. In addition, ABN AMRO Bank, directly or indirectly through its affiliate ABN AMRO, acted as an underwriter for the following public offerings of Adelphia securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

105. Defendant SunTrust Equitable Securities ("SunTrust") is a Tennessee corporation with a principal place of business located at 511 Union Street, Suite 800, Nashville, Tennessee 37219. SunTrust is an investment bank affiliated, and under common ownership and control, with SunTrust Bank. SunTrust acted as an underwriter for the following public offerings of Adelphia debt securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

106. Defendant SunTrust Banks, Inc. ("SunTrust Bank") is a corporation organized under the laws of the State of Delaware, with a principal place of business located in the State of Georgia. SunTrust Bank, a parent and affiliate of SunTrust, was a lender and

Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000. SunTrust Bank was also a lender in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997 and the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998. In addition, SunTrust Bank, directly or indirectly through its affiliate SunTrust, acted as an underwriter for the following public offerings of Adelphia securities:

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000.

107. Defendant Morgan Stanley Dean Witter & Co., f/k/a Morgan Stanley & Co. Incorporated ("Morgan Stanley") is a Delaware corporation with a principal place of business located at 1585 Broadway, New York, New York 10036. Morgan Stanley acted as an underwriter for the following public offering of Adelphia securities:

- 6,000,000 shares of Class A Common Stock issued October 1999;

- $750,000,000 10 7/8% Senior Notes issued September 20, 2000;

- 17,000,000 shares of Class A Common Stock issued January 2001;

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001; and

- 30,000,000 shares of Class A Common Stock issued November 2001.

108. Defendant Wachovia Bank, National Association ("Wachovia") is a national banking association with a principal place of business located in the State of Illinois. Wachovia, a parent and affiliate of Wachovia Securities, Inc. (f/k/a First Union Securities, Inc.) ("Wachovia Securities"), was a lender and Administrative Agent in connection with the $850 million co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about May 6, 1999, a lender and Managing Agent in connection with the $2.25 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about April 14, 2000, and a lender and Syndication Agent in connection with the $2.03 billion co-borrowing facility entered into by Adelphia subsidiaries and certain Managed Entities on or about September 28, 2001. Wachovia was also a lender in connection with the $800 million credit facility entered into by certain Adelphia subsidiaries on or about December 19, 1997, a lender and Managing Agent in connection with the $700 million credit facility entered into by certain Adelphia subsidiaries on or about December 30, 1998, and a lender in connection with the $1 billion credit facility entered into by certain Adelphia subsidiaries on or about December 3, 1999. In addition, Wachovia, directly or indirectly through its affiliate Wachovia Securities, acted as an underwriter for the following public offerings of Adelphia securities:

- $500,000,000 3.25% Convertible Subordinated Notes issued April 2001.

109. Salomon, Credit Suisse, Fleet, BMO, Banc of America, BNY, CIBC, Credit Lyonnais, Mizuho, Scotia Capital, Cowen, TD Securities, Barclay's, PNC, The Royal Bank, Deutsche Bank, J. P. Morgan, ABN AMRO, SunTrust and Morgan Stanley are collectively referred to herein as the Underwriter Defendants. Citibank, Citicorp, Citigroup, CSFB, Bank of Montreal, BOA, BONY, CI, CL, BNS, Societe Generale, TDI, BB, The Royal Bank, DBAG, Chase Bank, ABN AMRO Bank, SunTrust Bank and Wachovia are collectively referred to herein as the Bank Defendants. Each of the Bank Defendants acted as statutory underwriters of Adelphia securities. In their capacity as underwriters, the Underwriter Defendants and Bank Defendants owed Huff a duty to conduct due diligence in connection with Adelphia's offerings of debt securities and to confirm that the prospectuses and registration statements issued in connection with those offerings disclosed all material information and did not contain any material misrepresentations. In connection with public offerings of Adelphia equity and debt securities between June 7, 1999 and January 2002, the Underwriter Defendants and their Bank Defendant affiliates received approximately $188 million in underwriter fees and discounts. The Underwriter Defendants also received additional fees from Adelphia financial advisory and investment banking services they provided.

110. Defendant Buchanan Ingersoll Professional Corporation ("Buchanan") is a Pennsylvania professional corporation with a principal place of business located at One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219. At all relevant times, Buchanan acted as legal counsel to Adelphia, was responsible for reviewing the

prospectuses and registration statements for Adelphia and provided an expert legal opinion as to the validity of bonds issued in public offerings made by Adelphia in June and November 1999, September 2000, and June and October 2001, as expressly represented in the prospectuses for those offerings.

111. Defendant Latham & Watkins ("Latham") is a Delaware partnership with a principal place of business located at 885 Third Avenue, Suite 1000, New York, New York 10022. Latham acted as legal counsel to the Underwriter Defendants and was responsible for conducting due diligence in connection with Adelphia's public securities offerings and reviewing Adelphia's prospectuses and registration statements. In particular, Latham provided an expert legal opinion as to the validity of bonds issued in public offerings made by Adelphia in November 1999, September 2000, and June and October 2001, as expressly represented in the prospectuses for those offerings.

112. Deloitte, Buchanan and Latham are collectively referred to herein as the Expert Defendants.

113. Defendant John J. Rigas is an individual and, on information and belief, a citizen of the State of Pennsylvania. John Rigas founded Adelphia in 1952 and, at all relevant times, was President, Chief Executive Officer, Chairman and a director of Adelphia. John Rigas resigned his officer positions on May 15, 2002, and resigned as a director on May 23, 2002. As described in greater detail below, John Rigas signed the Adelphia registration statements, prospectuses, and SEC filings on which Huff relied in making its purchases of Adelphia and Century

securities, thereby attesting that all of the statements and representations made in those documents were true, accurate and complete.

114. Defendant Timothy Rigas is an individual and, on information and belief, a citizen of the State of Pennsylvania. At all relevant times, Timothy J. Rigas was Executive Vice President, Chief Financial Officer, Chief Accounting Officer, Treasurer, a director of Adelphia and a member of the Audit Committee of Adelphia's Board of Directors. Timothy Rigas stepped down from the Audit Committee in June 2001, resigned his officer positions on May 16, 2002, and resigned as a director on May 23, 2002. As described in greater detail below, Timothy Rigas signed the Adelphia registration statements, prospectuses, and SEC filings on which Huff relied in making its purchases of Adelphia and Century securities, thereby attesting that all of the statements and representations made in those documents were true, accurate and complete.

115. Defendant Michael J. Rigas is an individual and, on information and belief, a citizen of the State of Pennsylvania. At all relevant times, Michael Rigas was Executive Vice President, Operations, Secretary and a director of Adelphia. Michael Rigas resigned from all of these positions on May 23, 2002. As described in greater detail below, Michael Rigas signed the Adelphia registration statements, prospectuses, and SEC filings on which Huff relied in making its purchases of Adelphia and Century securities, thereby attesting that all of the statements and representations made in those documents were true, accurate and complete.

116. Defendant James P. Rigas is an individual and, on information and belief, a citizen of the State of Pennsylvania. At relevant times, James Rigas was Executive Vice President, Strategic Planning and a director of Adelphia. James Rigas resigned from all of these positions on May 23, 2002. As described in greater detail below, James Rigas signed the Adelphia registration statements, prospectuses, and SEC filings on which Huff relied in making its purchases of Adelphia securities, thereby attesting that all of the statements and representations made in those documents were true, accurate and complete.

117. Defendant Peter L. Venetis is an individual and, on information and belief, a citizen of the State of New York. At relevant times, Peter Venetis, a son-in-law of John Rigas, was a director of Adelphia. Peter Venetis resigned from his position as a director of Adelphia on June 11, 2002. As described in greater detail below, Peter Venetis signed Adelphia registration statements, prospectuses, and SEC filings on which Huff relied in making its purchases of Adelphia and Century securities, thereby attesting that all of the statements and representations made in those documents were true, accurate and complete.

118. John Rigas, Timothy Rigas, Michael Rigas, James Rigas, and Peter Venetis (collectively, the "Individual Defendants"), because of their positions with Adelphia, had access to the material adverse undisclosed information about the Company's business, operations, products, growth, financial statements, and financial condition, as alleged herein. Said Defendants were involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein,

were aware, or recklessly disregarded, that the false and misleading statements were being issued regarding the Company, and approved or ratified these statements, in violation of the federal securities laws.

119. As officers and controlling persons of a publicly-held company whose common stock was, and is, registered with the SEC pursuant to the Exchange Act, and was traded on the NASDAQ National Market (the "NASDAQ"), and governed by the provisions of the federal securities laws, the Individual Defendants each had a duty to disseminate promptly accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings and present and future business prospects, and to correct any previously-issued statements that had become known to have been materially false or misleading, so that the market price of the Company's publicly-traded securities would be based upon truthful and accurate information. The Individual Defendants' misrepresentations and omissions since June 7, 1999 violated these specific requirements and obligations.

120. The Individual Defendants participated in the drafting, preparation, and/or approval of the various registration statements, prospectuses, public, shareholder and investor reports and other communications complained of herein and were aware of or recklessly disregarded the misstatements contained therein and omissions therefrom, and were aware of or recklessly disregarded their materially false and misleading nature. Because of their Board membership and/or executive and managerial positions with Adelphia, each of the Individual Defendants had

access to the material adverse undisclosed information about Adelphia's business prospects and financial condition and performance as particularized herein and knew (or recklessly disregarded) that these adverse facts rendered the positive representations made by or about Adelphia and its business issued or adopted by the Company materially false and misleading.

121. The Individual Defendants, because of their positions of control and authority as officers and/or directors of the Company, were able to and did control the content of the various registration statements, prospectuses, SEC filings, press releases and other public statements pertaining to the Company discussed herein. Each Individual Defendant was provided with copies of the documents alleged herein to be misleading prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Accordingly, each Individual Defendant is responsible for the accuracy of the registration statements, prospectuses, public reports and releases detailed herein and is therefore primarily liable for the representations contained therein.

122. Defendant Scientific-Atlanta, Inc. ("Scientific-Atlanta") is a corporation based in Atlanta, Georgia, and is one of the nation's leading manufacturers of electronic equipment, including digital set-top boxes for use in the cable television industry. A digital set-top box is equipment that is placed on a subscriber's television to enable it to receive and view digital television. Adelphia purchases these boxes and supplies them to its subscribers so they can view Adelphia cable television programming.

123. Defendant Motorola, Inc. ("Motorola") is a corporation based in Schaumburg, Illinois, and is one of the nation's leading manufacturers of electronic equipment, including digital set-top boxes for use in the cable television industry.

124. Scientific-Atlanta and Motorola are collectively referred to as the "Box Manufacturer Defendants."

HUFF'S STANDING TO SUE

125. Huff brings this lawsuit in two representative capacities on behalf of its clients who beneficially own Adelphia securities (the "Beneficial Owners"): (1) as the investment adviser for the Beneficial Owners who actually made the decision to purchase the Adelphia securities on their behalf; and (2) as the "attorney-in-fact" for the Beneficial Owners.

126. Huff is an investment manager and registered investment adviser under the Investment Advisers Act of 1940 that purchases high yield notes predominantly for public and private pension funds, charities, foundations and other institutions, and high net worth individuals, many of whom are Beneficial Owners of Adelphia securities purchased by Huff. The Beneficial Owners hired Huff to manage their high yield bond portfolios and depend on the income generated from the investments to fund their own needs, including the provision of pension benefits to retired employees.

127. Each Beneficial Owner granted Huff complete discretion to invest on its behalf under the terms of an investment management agreement.

Decisions concerning whether to buy or sell particular securities for Beneficial Owners' accounts are solely Huff's; the Beneficial Owners have no role whatsoever in these investment decisions.

128. In exercising this discretionary authority, Huff made numerous investment decisions to purchase Adelphia notes on the Beneficia Owners' behalf. In making these investment decisions, Huff specifically read, reviewed and actually relied on the representations contained in all of Adelphia's registration statements, prospectuses, indenture agreements, and other SEC filings. Relying on the representations in these documents, Huff purchased hundreds of millions of dollars of Adelphia senior (and, in one instance, convertible subordinated) notes directly out of six public offerings and numerous secondary market transactions for the benefit of the Beneficial Owners.

129. None of the Beneficial Owners had any input, at any time, into Huff's decision to purchase Adelphia securities for their accounts.

130. As explained below, unbeknownst to Huff, these Adelphia filings on which it relied in making the decision to purchase Adelphia securities turned out to be filled with outright falsehoods and omissions concerning Adelphia's true financial picture.

131. As a consequence of its investment adviser contracts and relationships with its clients, Huff may-- and often does -- take steps to protect its clients in connection with investments it has made. Huff decided to do so in the case of the Beneficial Owners' investments in Adelphia.

132. In the wake of the disclosures about Adelphia's true financial condition, the prices of the hundreds of millions of dollars of Adelphia notes that Huff purchased declined significantly. Huff then sought and obtained specific authority from the Beneficial Owners, by means of powers of attorney, to commence this suit for recovery of their losses. Thereafter, Huff filed this case, as investment adviser and attorney-in-fact, to recover damages on behalf of its clients. Huff is required to distribute the proceeds of this suit (less payment of attorneys fees and expenses) to its clients on a proportionate basis.

133. Huff's fiduciary relationship with the Beneficial Owners on whose behalf it has sued is sufficiently close to make Huff as effective a proponent of the clients' interests as the clients themselves. Huff exercised discretionary investment authority to purchase the securities for its beneficiaries, and has obtained full authority to prosecute this suit on their behalf. Both Huff's clients and Huff as their fiduciary have a common interest in recouping the investment losses Defendants caused, and in deterring future violations of the securities laws. Indeed, by virtue of its fiduciary position, Huff has a strong incentive to recoup its beneficiaries' losses from the Defendants, ensuring the existence of an adequate case or controversy. Moreover, by virtue of their relatively small holdings in Adelphia, many of the Beneficial Owners lack the practical ability to sue on their own behalf individually. In this respect, Huff is not different from a trustee or other fiduciary who is empowered to bring suit in a representative capacity to recover damages suffered ultimately by the beneficiaries.

134. Having made the decision to purchase the Adelphia securities at issue on behalf of the Beneficial Owners, and having sued in its capacity as a fiduciary on behalf of the Beneficial Owners with their full authority and consent pursuant to powers of attorney, Huff is in privity with the Beneficial Owners. Huff's interests align perfectly with those of the Beneficial Owners. Having been vested with full authority to bring suit by virtue of its contractual rights and the powers of attorney, Huff can and will adequately represent those interests and bind the beneficiaries to any judgment ultimately entered by the Court. Given this close fiduciary and privity relationship between Huff and its beneficiaries, Huff has standing to bring this suit on the Beneficial Owners' behalf and is the real party in interest in this litigation.

SUBSTANTIVE ALLEGATIONS

I. The True State of Affairs at Adelphia

A. Overview

135. Adelphia's May 2002 8-K, June 6, 2002 8-K and June 10, 2002 8-K provide an astonishing look at what prior public disclosures and audited financial statements utterly failed to disclose and/or misrepresented. At all relevant times, Adelphia was administered not in the manner of a healthy, independent cable company -- as portrayed to Huff and the general public -- but rather as a goose from which the Rigas Family, through carefully constructed related entities, could pluck the golden eggs. Not only were funds of Adelphia consistently commingled with those of purportedly separate companies, but Adelphia was in reality a guarantor -- without benefit -- of

billions of dollars of loans whose proceeds were used for purposes ranging from buying hundreds of millions of dollars of Adelphia securities to paying a Rigas Family member millions of dollars for documentary film development to financing the purchase of the Buffalo Sabres hockey team. The Rigases used the CMS as a family bank account. The Underwriter Defendants, Deloitte, Buchanan, and the Individual Defendants failed to disclose that these improprieties were taking place, or their true nature and extent.

136. The "co-borrowing facilities" loaned money that flowed through Adelphia and out its doors, leaving behind actual but publicly undisclosed liabilities. The Bankl Defendants provided these co-borrowing credit facilities. Investment bank affiliates of these lenders -- including Salomon, an investment bank affiliate of Citibank -- also acted as underwriters for numerous public offerings of Adelphia debt securities. Adelphia used the proceeds of these offerings to directly repay the banks under the co-borrowing and other Adelphia credit facilities. Thus, by means of these offerings and the deceptive public disclosures that accompanied them, the banks were able to reduce their exposure to Adelphia by shifting hundreds of millions of dollars of bad loans -- which the banks knew about -- to Huff and other purchasers of Adelphia notes before actual defaults.

137. Certain Rigas Entities also purchased hundreds of millions of dollars of Adelphia junior debt and equity securities -- which, at the time, the Company announced to the public with great fanfare. However, the Defendants failed to disclose, among other things, that these purchases were in large part "paid for" either with entries on Adelphia's books that

were essentially laundered corporate "IOUs," or with money borrowed from senior credit facilities for which Adelphia itself was jointly and severally liable.

138. Thus, unknown to Huff, Adelphia was guaranteeing loans taken out to purchase its own junior securities on a massive scale, which artificially inflated the value of the Company and increased its borrowing capabilities, enabling the Company to continue to finance the personal expenditures of the Rigas Family. Because their full extent was not disclosed, the loans dramatically distorted the capital structure of Adelphia. The Rigas Family's purchases of Adelphia securities, while having the appearance of injecting new capital into the Company and retiring debt, in reality did no such thing. Because the Rigas Family made their purchases with borrowings on credit facilities for which Adelphia and its subsidiaries were ultimately liable, the Rigas Family's "investments" merely served to increase the Company's overall debt load. Making matters worse for Huff, this additional debt came in the form of bank debt that was senior to -- and, thus, ostensibly had a higher repayment priority than -- the notes held by Huff. Thus, instead of providing the beneficial capital infusions represented by the Defendants, the Rigases' securities purchases only served to worsen Huff's overall position. All of these transactions were given the financial seal of approval by Adelphia's hopelessly-conflicted auditor, Deloitte, the underwriters and the other Defendants.

B. The Co-Borrowing Credit Facilities

139. Beginning in at least 1998, various subsidiaries of the Company and Managed Entities

entered into co-borrowing credit facilities with lenders, including the Bank Defendants (collectively, the "Co-Borrowing Facilities"). Under the terms of these lending arrangements, each co-borrower under each of the credit facilities was permitted to borrow up to the entire amount of the available credit under the applicable facility. As confirmed by the May 2002 8-K, both the Adelphia subsidiary and Managed Entity on a given co-borrowing facility are jointly and severally liable to repay all amounts borrowed under the facility, regardless of which entity actually borrowed the money. These credit facilities were collateralized by a pledge of the stock of each co-borrower, and the stock of the co-borrower's pledged or guarantor subsidiaries.

140. During the year ended December 31, 2001, the Company's subsidiaries were parties to the following co-borrowing credit facilities:

- On March 29, 1996, Telestat Acquisition Limited Partnership ("TALP")[1], Global Acquisition Partners, L.P., (a subsidiary of the Company) and Highland Video Associates, L.P. ("HVA")[2], entered into a $200,000,000 co-

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[1] TALP was a subsidiary of Olympus Communications, L.P., which until October 1999 was a joint venture owned by Adelphia and FPL Group, Inc.

[2] The Five Named Rigas Family Members (John, Timothy, Michael, James and Ellen Rigas Venetis, the wife of Peter Venetis) are all of the general partners of Highland Holdings. The Five Named Rigas Family Members directly, or indirectly through Highland Holdings, own all of the partnership interests in HVA. HVA in turn owns substantially all of the partnership interests in the "HVA Entities," which own or operate certain cable systems.

borrowing loan agreement (the "TALP Facility"). This agreement was refinanced and terminated on September 28, 2001, as described below.

- On May 6, 1999, UCA Corp., UCA LLC, National Cable Acquisition Associates, L.P., Grand Island Cable, Inc., SVHH Cable Acquisition, L.P. and Tele-Media Company of Hopewell-Prince George, each a subsidiary of the Company, and HHC[3], closed on an $850,000,000 co-borrowing credit facility with several banks, which remained in effect at December 31, 2001 (the "UCA/HHC Co-Borrowing Facility").

- On April 14, 2000, Century Cable Holdings, Ft. Myers Cablevision, LLC, each a subsidiary of the Company, and HPGI[4], closed on a $2,250,000,000 co-borrowing credit facility with several banks (the "CCH Co-Borrowing Facility"). In addition, on September 28, 2000, Century Cable Holdings, Ft. Myers Cablevision, LLC, and HPGI, closed on a $500,000,000 9 1/4 year term loan. This term loan is part of the credit facility that closed on April 14, 2000, and all of the indebtedness under this facility

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[3] The Five Named Rigas Family Members directly or indirectly own Doris Holdings L.P. ("Doris L.P."), NCAA Holdings, Inc. and Illiad Holdings, Inc. These companies collectively own the "HHC Entities," which operate cable systems.

[4] The Five Named Rigas Family Members own all of the equity interests in Highland Prestige Georgia, Inc. ("HPGI"). HPGI is the parent of the "Highland Prestige Entities," which own or operate cable systems.

remained outstanding at December 31, 2001. Adelphia Business Solutions Operations, Inc. ("ABSO"), a subsidiary of Adelphia Business Solutions, Inc. ("ABIZ"),[5] which filed for bankruptcy court protection on March 27, 2002, was an unrestricted borrower under the revolving credit portion of this co-borrowing credit facility, and borrowed $500,000,000 in a number of transactions. The proceeds of these transactions were deposited into the Adelphia CMS. As of December 31, 2001, ABSO was allocated $500,000,000 of the outstanding loans under this co-borrowing credit facility. The Company's subsidiaries under this credit facility and HPGI are each jointly and severally liable for the ABSO borrowings. ABSO, as an unrestricted borrower, is liable only for its own borrowings.

- On September 28, 2001, Olympus Cable Holdings, LLC, Adelphia Company of Western Connecticut and Adelphia Holdings 2001, LLC, each a subsidiary of the Company, HVA, and CTCC[6], closed on a $2,030,000,000 co-borrowing credit facility with several banks which remained in effect at December 31, 2001 (the "Olympus Co-Borrowing Facility"). A portion of the proceeds from this facility were used to repay and terminate the $200,000,000 TALP Co-

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[5] ABIZ was a consolidated subsidiary of the Company on December 31, 2001, and became a former subsidiary of the Company on January 11, 2002 by virtue of a spin-off transaction.

[6] CTCC (Coudersport Television Cable Company) is an operating cable company 100% of which is owned by John J. Rigas.

Borrowing Facility dated March 29, 1996 identified above.

141. Since use of the co-borrowing facilities commenced, Adelphia's practice has been to disclose on its consolidated balance sheets and financial statements only those amounts that were borrowed directly by its subsidiaries under the facilities. Amounts borrowed by the Managed Entities were not disclosed as part of Adelphia's balance sheets and financial statements, notwithstanding the fact that Adelphia and its subsidiaries were (and remain) jointly and severally liable for repayment of the Managed Entities' borrowings and that such disclosures were required under GAAP. As discussed in greater detail below, this practice resulted in the presentation in Adelphia's registration statements, prospectuses, public SEC filings and other reports of an extremely misleading picture of the Company's financial condition and results.

142. As of December 31, 2001, the maximum aggregate amount that could be borrowed by the co-borrowers under all of the co-borrowing credit facilities was $5,630,000,000. Between January 1999 and March 2002, the Managed Entities borrowed billions of dollars under these facilities, which they used for purposes having nothing to do with the legitimate business of Adelphia and its subsidiaries. Indeed, as of December 31, 2001, at least $2.5 billion of Managed Entity borrowings remained outstanding, which Adelphia and its subsidiaries are liable to repay.

143. Deloitte, the Underwriter Defendants, the Bank Defendants and the Individual Defendants failed to disclose that the Managed Entities were borrowing

massive amounts of money under the co-borrowing facilities -- and that they were using the proceeds of these borrowings to buy assets and engage in transactions that benefited only the Rigas Family with no legitimate corporate benefit or purpose for Adelphia. The overall effect of the Managed Entities' borrowings on Adelphia -- again, an undisclosed effect -- was to impair Adelphia's working capital and add to Adelphia's already significant interest expense.

144. Nor did the Managed Entities' borrowing binge end in 2001. According to the May 2002 8-K, the total amount outstanding under all of the co-borrowing credit facilities as of April 30, 2002 was approximately $4.58 billion -- meaning that the Managed Entities borrowed approximately an additional $1.5 billion in the first four months of 2002. These transactions all took place under the watchful eye of Deloitte, the Underwriter Defendants, Buchanan, Latham and the Individual Defendants.

C. Commingling of Funds Among Adelphia, Adelphia's Subsidiaries and Related Parties

145. In addition to running up huge Company debts via the Managed Entities' use of the co-borrowing facilities, the Rigas Family systematically commingled the funds of Adelphia, its subsidiaries, the Managed Entities and the other Rigas Entities, and treated all of these funds as available for their personal use.

146. The vehicle for the Rigas Family's commingling of corporate and personal monies was Adelphia's CMS. As disclosed in the May 2002 8-K, the

"Adelphia CMS Participants" included Adelphia, its subsidiaries, Managed Entities and the Rigas Entities. The CMS was a vast pot into which the Adelphia CMS Participants deposited their cash -- including amounts borrowed under the co-borrowing facilities -- and from which they withdrew funds as needed -- whether for legitimate corporate purposes or not. Under the CMS, all cash received by Adelphia, its subsidiaries and the Rigas Entities (including amounts borrowed under the Co-Borrowing Facilities) was swept, on a regular basis, into accounts maintained at First Union of Florida (now Wachovia) in Pensacola, Florida. In turn, expenses of Adelphia, its subsidiaries and the Rigas Entities were paid from the same accounts. Revenues and expenses of particular entities were accounted for through intercompany payables and receivables within the CMS. Adelphia subsidiaries also transferred funds back and forth with other subsidiaries, Managed Entities and Rigas Entities, resulting in an elaborate set of accounting entries purporting to document inter-company liabilities. As explained in the May 2002 8-K:

> [e]ach Adelphia CMS Participant (i) deposits all or some of its cash generated or otherwise obtained from its operations, borrowings and other sources into the Adelphia CMS, (ii) withdraws cash from the Adelphia CMS to be used for its expenses, capital expenditures, repayments of debt and other uses, and (iii) engages in transfers of funds with other Adelphia CMS Participants. *The operation of the Adelphia CMS results in the commingling of funds among the Adelphia CMS Participants, which include Company subsidiaries and Rigas Entities.* These transactions create numerous

related party payables and receivables among the Adelphia CMS Participants.

(Emphasis added).

147. Given the sheer scope of this commingling, the Underwriter Defendants, the Bank Defendants, Buchanan, Latham and the Individual Defendants should have been aware of the CMS. Indeed, the CMS had been in place for many years with the blessing of Deloitte and Adelphia's Board of Directors, and most of the accounts comprising the CMS were maintained by Wachovia. Nor should the Defendants have failed to appreciate the drain on Adelphia's working capital and other corporate resources caused by the Rigas Family's use of the CMS -- all without any legitimate benefit flowing to Adelphia from the Rigas Family's transactions. However, none of the Defendants disclosed the inner-workings of this system to investors.

148. The CMS was also an instrument for self-dealing by the Rigas Family. As the May 2002 8-K reveals, "[t]ransactions involving Adelphia CMS Participants sometimes occur, that result in payables and receivables between and among various Adelphia CMS Participants and/or other Rigas Persons and Entities." In other words, individual members of the Rigas Family commingled, transferred and withdrew monies from the CMS. As described in greater detail below, the Rigas Family used corporate monies taken from the CMS for a wide variety of personal pursuits. Simply put, Deloitte, the Underwriter Defendants, Buchanan, Latham and the Individual Defendants let Adelphia serve -- undisclosed -- as the Rigas Family's personal cash machine.

149. The wide ranging commingling of funds achieved through the CMS allowed Adelphia, among other things, to move loan proceeds and resultant debt between "CMS Participant" balance sheets in a corporate shell game. As stated in the May 2002 8-K:

> [c]ertain Adelphia CMS Participants that are Managed Cable Entities are co-borrowers with certain of the Company's subsidiaries under revolving credit and term loan agreements. Borrowings under these co-borrowing credit facilities are generally deposited in the Adelphia CMS. On a quarterly basis, the Company records journal entries to record the indebtedness attributed to the co-borrowers with corresponding adjustments to their receivables or payables. Such adjustments are based on consideration of the net effect of quarterly transactions between the Company and certain of its subsidiaries, on the one hand, and the Managed Cable Entities, on the other hand.

Adelphia had no regular policy for billing and collection of the receivable balances from its subsidiaries or the Rigas Entities.

150. For example, at the close of the third quarter of 2000, Adelphia arbitrarily reclassified $187,001,026 of co-borrowing debt on Adelphia's books and placed that debt on the books of HPGI, a Rigas Entity, as debt of HPGI under the CCH Co-Borrowing Facility. Adelphia made similar reclassifications of Adelphia's co-borrowing debt to HPGI under the CCH Co-Borrowing Facility at the end of the quarters ending on December 31, 2000, March 31, 2001 and June 30, 2001.

In another instance, at the end of the quarter ending September 30, 2001, Adelphia reclassified approximately $215,009,000 of Adelphia's co-borrowing debt as transferred it to the books of Highland Video, a Rigas Entity that is also a co-borrowed on the CCH Co-Borrowing Facility. For each of these reclassifications and transfers, no attempt was made to verify that the Rigas Entity had drawn down, or otherwise benefited from, the funds drawn down from the co-borrowing facility. The transfer was purely arbitrary, and served the purpose of concealing the true of amount of Adelphia's debt.

151. Although proceeds from the co-borrowing facilities were deposited in Adelphia's CMS, Adelphia's allocation on its books of primary responsibility for that debt to the Managed Entities -- combined with Adelphia's practice of not disclosing Managed Entity borrowings under the co-borrowing facilities on Adelphia's financial statements -- enabled Adelphia to hide from investors billions of dollars in such borrowings. Although the debt incurred remained the ultimate responsibility of Adelphia and its subsidiaries, borrowings "allocated," or "reallocated" through quarterly or periodic "adjustments," to Rigas Entities and/or Managed Entities, were never disclosed.

152. The very existence of the CMS should have been a fundamental concern of due diligence by Deloitte and the Underwriter Defendants in connection with evaluating the state of Adelphia's internal controls.

D. Rigas Entity Securities Purchases

153. Among the Rigas Family's preferred uses of proceeds from the co-borrowing facilities was the funding of their acquisition of Adelphia securities. These purchases served a highly useful purpose: they artificially boosted the confidence of Adelphia investors by giving the appearance that the Rigas Family was injecting hundreds of millions of dollars of new capital into Adelphia -- capital that Adelphia was purportedly using in part to retire senior bank debt. In fact, the Rigas Family's purchases were being funded by Adelphia's incurrence of additional, undisclosed senior bank debt, with the result that Adelphia had far less equity, and far more debt, than its public filings represented.

154. The May 2002 8-K reveals many details about the Rigas Family's securities purchases and how they were funded. Two Rigas-controlled entities, Highland 2000 and Highland Holdings, entered into a number of transactions since January 1, 2001 relating to the acquisition of debt or equity securities of the Company that were funded through use of the co-borrowing facilities.

155. In each transaction consummated by Highland 2000, the "purchase price" for the securities was settled through a series of bookkeeping entries as follows:

- The securities were issued by the Company to Highland 2000, and the Company recorded a receivable from Highland 2000 for the amount of the purchase price.

- A Managed Cable Entity was allocated, as among the co-borrowers, the primary obligation to repay outstanding indebtedness under a co-borrowing credit facility that had previously been allocated, as among the co-borrowers, to a subsidiary of the Company, in an amount equal to the purchase price, and the Company recorded a payable to the Managed Cable Entity for the amount of the purchase price.

This mechanism was essentially a "double whammy" accounting gimmick designed to mislead investors as to what were the true economic realities behind the Rigas Family's acquisition of Adelphia securities. As a result of these bookkeeping entries, the Adelphia subsidiaries misleadingly transferred senior bank debt off their own books (and, hence, off Adelphia's consolidated balance sheet) to that of a Managed Entity. At the same time, the transaction gave the appearance that the Rigas Family was injecting new capital into Adelphia subordinate to the high-yield debt purchased by Huff. In fact, no new cash was injected into Adelphia, and Adelphia and its subsidiaries remained jointly liable for the senior bank debt that had been "reallocated" to the Managed Entities -- debt that was ostensibly senior to Huff's securities. From the perspective of a bondholder like Huff, the equity cushion it was relying on was transformed into debt senior to the securities it held. Moreover, by moving the bank debt off of Adelphia's balance sheet, these accounting gimmicks concealed the fact that Adelphia exceeded the restrictions on total indebtedness contained in its bond covenants, which undermined the validity of numerous bond offerings in 2000 and 2001. In addition, the ultimate economic effect of the Rigas Family's use of co-

borrowing facilities -- for which Adelphia was ultimately liable -- to purchase Adelphia securities, was to effectuate an indirect acquisition by the Company of Indebtedness of Adelphia subordinate in right of payment to Huff's notes or of shares of Adelphia capital stock, which acquisitions violated the restricted payment covenant in the bond indentures.

156. In other instances, the Rigas Family -- acting through Highland Holdings -- simply paid for Adelphia securities with cash withdrawn from the Adelphia CMS.

157. *Just in the years 2000 and 2001,* the following Rigas Family securities purchases were undertaken with Adelphia's credit or with corporate funds (the last two of which are still scheduled to close):

Date of Agreement	Purchaser	Type and Amount Of Securities	Total Aggregate Purchase Price	Form of Consideration
1/24/00	Highland Holdings	Class B Common Stock	$368,000,000	Purchase price paid through $368,000,000 drawdown on UCA/HHC Co-Borrowing Facility and assignment of this debt to HHC in lieu of cash payment
7/3/00	Highland Holdings	Class B Common Stock	$145,000,000	Purchase price paid through $145,000,000 drawdown on CCH Co-Borrowing Facility and assignment of this debt to HPGI in lieu of cash payment
1/17/01	Highland 2000	5,819,367 shares of Class B Common Stock	$259,900,000	Agreement provided for payment of immediately available funds; purchase price paid through bookkeeping entries in lieu of cash payment

Date of Agreement	Purchaser	Type and Amount Of Securities	Total Aggregate Purchase Price	Form of Consideration
1/17/01	Highland 2000	$167,400,000 aggregate principal amount of 6% convertible subordinated notes due 2006	$162,500,000	Agreement provided for payment of immediately available funds; purchase price paid through bookkeeping entries in lieu of cash payment
2/1/01	Highland Holdings	100,000 Shares of Class A Common Stock	$4,452,000	Cash Withdrawn from Adelphia CMS
4/19/01	Highland 2000	$400,000,000 aggregate principal amount of 3.25% convertible subordinated notes due 2021	$393,500,000	Agreement provided for payment of immediately available funds; purchase price paid through bookkeeping entries in lieu of cash payment

Date of Agreement	Purchaser	Type and Amount Of Securities	Total Aggregate Purchase Price	Form of Consideration
10/20/01	Highland 2000	Class B Common Stock and 6% Convertible Subordinated Notes	$423,375,076	Purchase price paid by transfer of co-borrowing debt to Rigas Entity Highland Video
11/9/01	Highland 2000	5,819,367 shares of Class B Common Stock	$154,050,000	Agreement provides for payment of immediately available funds; scheduled to close 8/12/02
11/9/01	Highland 2000	2,000,000 shares of 7.5% Series E mandatory convertible preferred stock	$48,500,000	Agreement provides for payment of immediately available funds; scheduled to close 8/12/02
		2001 TOTAL:	**$1,022,902,000**	

158. In October 1999, April 2000 and February 2001, the Rigases, through Highland Holdings, acquired a total of $59 million worth of Adelphia securities on the open market using funds obtained from the CMS. Highland never reimbursed or otherwise compensated Adelphia for the purchases.

159. In addition to using the proceeds of the co-borrowing facilities to fund its acquisition of Adelphia securities, the Rigas Family took out a series of margin loans from investment and commercial banks, to which it pledged as collateral the Adelphia securities it purchased. When they experienced margin calls, the Rigases simply withdrew cash from the Adelphia CMS to pay off the calls -- a fact that the Company and the other Defendants failed to disclose even in Adelphia's March 27 disclosure of its off balance sheet debt. However, as revealed in the May 2002 8-K, the Rigas Family continued this practice even after the Company's March 27 disclosure by withdrawing approximately $175 million from the CMS to make payments on margin calls:

> Certain Rigas Persons and Entities have entered into margin loan agreements with various investment banks and other financial institutions and pledged equity and debt securities issued by the Company to secure such loans. Although the total amount of these loans is unknown, since January 1, 2001, certain Rigas Persons and Entities have made $241,167,006 of payments in connection with margin calls. *Of that amount, $177,789,669 has been paid in 2002, with approximately $174,638,151 having been paid since March 27, 2002.* Funds for these margin call payments by

Rigas Persons and Entities came from the Adelphia CMS.

(Emphasis added).

Thus, even after Adelphia had begun disclosing the Rigases' pattern of self-dealing, the Rigases engaged in even more brazen acts of self-dealing. The Defendants failed to disclose the Rigases' improper conduct, even though less than six weeks after paying $175 million to cover Rigas Family margin calls to commercial and investment banks, Adelphia missed $38 million in interest payments on bonds held by the faceless public.

E. Management Services Provided By The Company to Related Entities

160. While on the one hand falsely reducing its apparent liabilities by failing to disclose debts incurred on behalf of related entities, Adelphia on the other hand inflated its earnings and assets by either failing to collect actual receivables, or booking apparently dummied receivables, from related companies. The Rigas Family, who actually controlled these related companies, either paid Adelphia using Adelphia's own funds, or simply failed to make the required payments.

161. For instance, during the year ended December 31, 2001, Adelphia purportedly provided management services to the Highland Prestige Entities for which the Highland Prestige Entities were to pay the Company up to 5% of system revenues for such services, as well as other related fixed fees charged by the Company. For the year ended December 31, 2001, the total aggregate amount of all fees and expenses that the Highland Prestige Entities

were charged by the Company was $7,793,000. Apparently, the Rigas-owned Highland Prestige Entities never actually paid any of these fees to Adelphia.

162. During the year ended December 31, 2001, the Company provided similar management services to the Rigas-owned Highland Holdings (parent of the HVA Managed Cable Entities), Doris L.P. (parent of the HHC Managed Cable Entities), and NFHLP[7]. For the year ended December 31, 2001 the fees booked as paid by each of these entities to the Company were as follows:

- Highland Holdings paid $3,944,000;
- Doris L.P. paid $3,675,000; and
- NFHLP paid $3,417,000.

While it appears that Adelphia actually received these fees, Adelphia is also the one who actually paid them. The Special Committee has concluded that, in fact, "funds for the payment of these services by NFHLP came from the Adelphia CMS." In other words, the Rigas Family paid Adelphia the fees they owed with Adelphia's own money.

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[7] NFHLP (Niagara Frontier Hockey, L.P.) owns the National Hockey League franchise for the Buffalo Sabres hockey team. John J. Rigas owns a 99% limited partnership interest in NFHLP. A 1% general partnership interest in NFHLP is owned by Patmos, Inc., a Delaware corporation which is 100% owned by the Rigas Parties.

163. These revelations are merely the tip of the iceberg. The May 2002 8-K makes clear that, despite several weeks of investigation, there remain serious problems that the Special Committee still cannot explain. For example, the Special Committee "is investigating whether management fees paid by Highland Holdings to the Company were paid using borrowings under a co-borrowing credit facility ... [and] whether these management fees may have been effectively offset by the assumption by the Company or one of its subsidiaries of obligations, including interest payment obligations, of Rigas Persons and Entities, and whether these offsetting transactions were undertaken solely to increase the Company's revenues." What can be gleaned from the Special Committee's investigation thus far is that Adelphia's presentation of its earnings and debts on its consolidated financial statements was, at the very least, highly misleading.

F. Inflation of EBITDA Through Accounting Irregularities

164. According to the June 10, 2002 8-K, Adelphia's previously-reported EBITDA was artificially and fraudulently inflated by the following six accounting practices:

- Adelphia conspired with its two main vendors of digital converter boxes to raise the price of each box by $26. Thereafter, for each digital converter box Adelphia purchased, the vendors rebated $26 of the purchase price back to Adelphia for "marketing support." Adelphia improperly treated these payments as a reduction of operating expenses, and treated the

payments for the boxes as capital expenditures, resulting in overstatements of EBITDA by $54 million in 2001 and $37 million in 2000.

- Adelphia accepted financial instruments as payment from certain interactive cable service providers. When the value of these instruments subsequently declined, Adelphia did not reflect their reduction in value in reported EBITDA, resulting in overstatements of EBITDA by $52 million in 2001 and $28 million in 2000.

- Adelphia improperly accounted for the cost of certain contracts for television programming, resulting in overstatements of EBITDA by $42 million in 2001 and $23 million in 2000.

- The Company improperly capitalized labor expenses, resulting in overstatements of EBITDA by approximately $40 million in 2001 and 2000.

- The Company failed to properly account for transactions with its (former) subsidiary, Adelphia Business Solutions, the Rigas Entities and other parties, resulting in overstatements of EBITDA by approximately $18 million in 2001 and $19 million in 2000.

- Adelphia improperly recognized revenue from subscribers under deferred billing arrangements, resulting in overstatements of EBITDA by approximately $4 million in 2001 and $13 million in 2000.

G. Rigas Entity Transactions For the Benefit of the Rigas Family

165. Besides using corporate funds and credit to purchase the Company's securities, the Rigas Entities engaged in a lengthy set of undisclosed transactions that were intended to enrich members of the Rigas Family at the expense of Adelphia and its investors. The sheer size and frequency of these transactions could not have escaped the notice of the Underwriter Defendants, the Expert Defendants, and the Individual Defendants. Indeed, the details of these transactions bespeak a shocking lack of internal controls at Adelphia over the use of corporate resources.

166. **Payments by Adelphia to Rigas Entities for Products and Services.** As disclosed in the May 2002 8-K, during the year ended December 31, 2001, the Company made the following payments to related parties owned and controlled by the Rigas Family:

- The Company paid approximately $12,416,000 to EI[8] and $371,000 to Dobaire[9], primarily for office furniture and fixtures and related installation and design services.

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[8] EI (Eleni Interiors, Inc.) is an interior design firm 100% owned by John J. Rigas. It is not known whether EI performs services for any parties other than the Company, its subsidiaries and the Rigas Persons and Entities.

[9] Dobaire is a design services firm and sole proprietorship owned by Doris Rigas, the wife of John J. Rigas and the mother of Michael J. Rigas, Timothy J. Rigas, James P. Rigas and Ellen Rigas Venetis.

- The Company paid approximately $2,019,000 to Wending Creek[10] for various maintenance and related services.

- The Company paid an aggregate amount of approximately $100,000 to Rigas Persons and Entities, including Ellen Rigas Venetis, Dorellenic Cable Partners, John J. Rigas, the Coudersport Theatre[11] and Wending Creek, for office and warehouse rent.

- The Company paid approximately $50,000 to Ellen Rigas Venetis for community service and public relations consulting services.

- During the year ended December 31, 2001, the Company purchased approximately 50 motor vehicles from Preston Motors, a car dealership in which Defendant John J. Rigas has a material beneficial interest.

167. **The Buffalo Sabres.** The Rigas Family funded NFHLP's acquisition of the Buffalo Sabres with Adelphia corporate monies. Moreover, as disclosed in

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[10] Wending Creek is a provider of facilities maintenance services and related materials 100% owned by John J. Rigas. Services provided by Wending Creek include electrical, heating, ventilation and air conditioning services, snow removal, lawn care services, landscaping and minor construction services. It is not known whether Wending Creek performs services for any parties other than the Company, its subsidiaries and the Rigas Persons and Entities.

[11] Coudersport Theatre is a sole proprietorship 100% owned by John J. Rigas.

the May 2002 8-K, in addition to receiving loans from the Company, NFHLP "from time to time ... finances its operations through withdrawals of cash (and the generation of net payables to the Company) under the Adelphia CMS." As of December 31, 2001, the total amount outstanding to Adelphia under various notes, assumed loans and advances to and on behalf of NFHLP was $150,157,000. This amount notwithstanding, the Company paid $744,000 to NFHLP (net of certain payables due to the Company generated for certain services rendered) for luxury suite rentals and other related expenses at HSBC Arena in Buffalo, New York, including tickets for the Company's employees to Buffalo Sabres games and other related entertainment costs. At the same time, Adelphia provided free advertising to the Sabres on cable television networks owned by the Company.

168. **Loans to Rigas-Controlled Affiliates.** According to the May 2002 8-K, during 2001, and possibly in prior periods, the Company advanced funds to ErgoArts and SongCatcher Films[12] on an unsecured basis. At December 31, 2001, the outstanding balance due to the Company from ErgoArts and SongCatcher Films under these arrangements was approximately $677,000 and $3,077,000, respectively. The advances to ErgoArts were made principally in connection with the development and potential production of

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[12] ErgoArts is 100% owned by John J. Rigas and Ellen Rigas Venetis. John J. Rigas and Ellen Rigas Venetis have an equity interest in SongCatcher Films. ErgoArts is a film development and production company. SongCatcher Films is a developer and provider of films. It is not known whether ErgoArts and SongCatcher Films perform services for any parties other than the Company, its subsidiaries and Rigas Persons and Entities.

documentary films. The advances to SongCatcher Films were made in connection with the creation and production of the motion picture entitled SongCatcher.

169. **Loans to Adelphia Corporate Officers.** James R. Brown, the Company's former Vice President of Finance, received a loan from the Company in the aggregate principal amount of $700,000. According to the May 2002 8-K, "[t]he date and terms of this loan are not known to the Company at this time." Again, this loan appears to be the tip of the iceberg, and the Special Committee is also investigating the existence of other loans to officers of the Company, and "is seeking to identify and categorize other loans to affiliates that may exist."

170. **Adelphia's Payments to Praxis, Praxis Capital and Praxis Management.** Defendant Peter Venetis is the Managing Director of Praxis Capital Partners, LLC ("Praxis Capital"), the general partner of Praxis Capital Ventures, L.P. ("Praxis"), an investment partnership. Formed in June 2001, Praxis focuses on private equity investments in the telecommunications market. Although without any legitimate corporate purpose, the Company signed a contract calling for the commitment of $65,000,000 of capital to Praxis, of which it has actually funded approximately $2,950,000. The Company is the sole limited partner of Praxis and has 99.5% of the total partnership interest.

171. Praxis Capital Management, LLC ("Praxis Management"), owned by Mr. Venetis, is the management company of Praxis and receives a management fee of 2.0% of Praxis' committed capital, in the amount of approximately $1,307,000 annually,

virtually all of which Praxis Management pays to Mr. Venetis in the form of salary. Adelphia has paid management fees of approximately $1.96 million to Praxis Management out of its capital contributions to Praxis. Thus, Adelphia has paid Peter Venetis approximately $1.96 million per year for work he has purportedly performed managing Praxis. The Praxis entities are but another way for a Rigas Family member to skim money from the Company.

172. **The Golf Club.** Adelphia, through Golf Club, a wholly-owned subsidiary of the Company, is constructing a golf club and golf course on approximately 830 acres of land near Coudersport, Pennsylvania, of which 535 acres are owned by Wending Creek, a Rigas Entity, 126 acres are owned by Wending 3656, another Rigas Entity, and 169 acres are owned by a wholly-owned subsidiary of the Company. The Company has expended approximately $13,000,000 on equipment and development costs for this project, with no apparent purpose but to benefit the Rigas Family.

173. **Timber Rights Transaction.** In February 2000, a subsidiary of the Company, ACC Operations, purchased timber rights, covering a twenty-year period from the date of closing, from an unaffiliated third party with respect to 3,656 acres of land located in Potter County, Pennsylvania, for a purchase price of $26,535,070. At the end of the twenty-year period, the timber rights revert to the owner of the underlying land at such time. The revenue earned by the Company during the year ended December 31, 2001, is unknown. At or about the same time in an apparent straw transaction, Wending 3656 purchased the underlying 3,656 acres from the unaffiliated third

party for a purchase price of $464,930. The timber purchase agreement provides that if a change in ownership of the Company occurs during the twenty-year period, then the timber rights would revert to Wending 3656 as part of the consideration received by Wending 3656 as a result of the change in ownership transaction. A change in ownership is defined to occur in the event that the cumulative voting percentage of the Company stock held by John J. Rigas and the members of his immediate family falls below 50% of all outstanding voting shares.

174. **Corporate Perks for the Rigas Family.** The Rigas Family has used corporate resources to fund various "perks" for themselves. For example, Rigas Persons and Entities used Company aircraft for reasons unrelated to the business or operations of the Company or any of its subsidiaries. Company funds and resources were used to construct, acquire or maintain condominiums in Beaver Creek, Colorado, and Cancun, Mexico, for use exclusively or primarily by Rigas Persons and Entities as opposed to Company personnel. Finally, the Company owns two apartments in New York City that, since some time in 1998, have been used on a rent-free basis exclusively by Ellen Rigas Venetis and Peter L. Venetis. John Rigas also received at least $1 million per month in undisclosed advances from the CMS beginning in 2001.

H. The Highland Video Digital Converters Transaction.

175. In another sham transaction designed to fraudulently reduce Adelphia's true debt, Adelphia removed $101 million of co-borrowing debt from its books in the fourth quarter of 2001 through a

fraudulent transaction with Highland Video in which Highland Video received digital converters from Adelphia. Highland Video had no cable operations and, consequently, no need for the digital converters. Nevertheless, Adelphia purported to "sell" digital converters to Highland Video in order to remove excess inventory from its books. In satisfaction of the purported purchase price for the converters, Adelphia transferred $101 million of co-borrowing debt under the CCH Co-Borrowing Facility to Highland Video, thereby also artificially reducing the debt carried on Adelphia's financial statements.

I. Inflation of Cable Subscribers

176. Adelphia also artificially inflated the number of basic cable subscribers it reported through a number of gimmicks. Adelphia counted as basic cable subscribers numerous persons who did not fit within the definition of "a home with one or more television sets connected to a cable system" set forth in Adelphia's 1999 10-K and 2000 10-K. For example:

- Beginning in the first quarter of 2000, Adelphia included in its reported count of basic cable subscribers 15,000 subscribers of an unconsolidated affiliate located in Brazil in which Adelphia did not own a controlling interest.

- Beginning in the third quarter of 2000, Adelphia included in its reported basic cable subscriber count 28,000 customers of an unconsolidated Venezuelan affiliate in which Adelphia did not own a controlling interest.

- Beginning in the third quarter of 2000, Adelphia counted as basic cable subscribers customers who subscribed to long distance telephone service offered by an Adelphia subsidiary in the business of reselling long distance capacity.

- In the last three quarters of 2001, Adelphia included in its reported basic subscriber count tens of thousands of customers who received Adelphia's Internet service, rather than cable television services.

- In the third and fourth quarters of 2001, Adelphia included in its reported number of basic cable subscribers 60,000 customers who subscribed to Adelphia's home security service.

- Adelphia also began including in its basic cable subscriber count each unit in a multi-family dwelling even though only one unit may have been a paying subscriber and met Adelphia's definition of a basic cable subscriber.

- Adelphia also at times counted as basic cable subscribers customers of Rigas Entities that competed with Adelphia.

II. Overview of Huff's Purchases of Adelphia and Century Communications Securities.

177. Adelphia was a prolific issuer of securities, often soliciting capital through public securities offerings several times a year.

178. Huff made purchases of Adelphia high yield debt securities in the following public offerings, as well

as in the secondary market following the public offerings:

a. a June 15, 1999 exchange offering of 7 ¾% Series B Senior Notes due January 15, 2009 and 7 ½% Series B Senior Notes due January 14, 2004 (the "June 1999 Offering");

b. a November 16, 1999 offering of 9 3/8% Senior Notes due November 15, 2009 (the "November 1999 Offering");

c. a September 20, 2000 offering of 10 7/8% Senior Notes due October 1, 2010 (the "September 2000 Offering");

d. a January 18, 2001 offering of 6% Convertible Subordinated Notes due 2006 (the "January 2001 Offering");

e. a June 12, 2001 offering of 10 ¼% Senior Notes due June 15, 2011 (the "June 2001 Offering"); and

f. an October 25, 2001 offering of 10 ¼% Senior Notes due November 1, 2006 (the "October 2001 Offering").

179. Huff made additional purchases of each of the securities described above in the secondary market following the public offerings. In addition, since May 31, 1999, Huff has made purchases on the secondary market of the following Adelphia high yield debt securities, which were issued in public offerings made prior to May 31, 1999:

a. Adelphia 8 3/8% Senior Notes due February 1, 2008;

b. Adelphia 9 7/8% Senior Notes due March 1, 2005;

c. Century 8 7/8% Senior Notes due January 15, 2007;

d. Century 9 1/2% Senior Notes due March 1, 2005;

e. Adelphia 9 7/8% Senior Notes due March 1, 2007;

f. Century 8 3/4% Senior Notes due October 1, 2007;

g. Adelphia 10 1/2% Senior Notes due July 15, 2004;

h. Adelphia 9 1/4% Senior Notes due October 1, 2002;

i. Century 0% Senior Notes due January 15, 2008;

j. Century 0% Senior Notes due March 15, 2003;

k. Adelphia 8 1/4% Senior Notes due July 15, 2003;

l. Adelphia 7 7/8% Senior Notes due May 1, 2009;

m. Century 8 3/8% Senior Notes due December 15, 2007.

180. In the course of making the above purchases, Huff eyeballed, read, reviewed and relied upon all of Adelphia's SEC filings, registration statements and prospectuses in an effort to consider all publicly-available material information about Adelphia and the securities concerned.

III. The Expert Defendants', the Underwriter Defendants' and the Bank Defendants' Involvement In Adelphia's Misconduct

181. Deloitte, the Underwriter Defendants and the Bank Defendants failed to disclose Adelphia's true financial condition by preparing all or a portion of the misleading registration statements, prospectuses and public filings. Each of these entities had a role to play under the federal securities laws -- laws which were designed to protect investors from deceptive issuers of securities. However, Deloitte and the Underwriter Defendants failed to perform their roles faithfully. At a minimum, had these defendants, as well as the lawyers -- Buchanan and Latham -- performed their roles with anything resembling the requisite degree of diligence, they would have discovered the flagrant misrepresentations and material omissions contained in the offering documents and public filings with which they were associated.

182. In light of the revelations in the May 2002 8-K and the June 10, 2002 8-K, it has become abundantly clear that, throughout the entire period when Huff was purchasing Adelphia debt securities in the offerings described above, Adelphia's image -- as

described in public filings, registration statements and prospectuses prepared, reviewed and/or approved by the Underwriter Defendants, the Bank Defendants and the Individual Defendants and in connection with which the Expert Defendants made expert statements that were materially false and misleading -- was starkly different from the reality of what was happening inside the Company. While Adelphia and the other defendants heralded the Rigas Family's management of Adelphia and its substantial equity investments in the Company, in fact the Rigases ran Adelphia as if it existed solely to benefit them. Adelphia and the Defendants failed to disclose the Rigas Family's egregious acts of self-dealing -- as well as Adelphia's false inflation of subscribers, EBITDA and capital expenditures -- from the outside world so as to maintain Adelphia's ability to obtain new equity and debt financing from investors like Huff and keep the Rigases' gravy train running. This concealment was achieved through a series of extremely misleading registration statements, prospectuses and public SEC filings on which Huff relied to its detriment in making its purchases of Adelphia securities, and which artificially inflated the price of the Company's securities.

183. Indeed, Adelphia's announcement that it intends to restate its consolidated balance sheets and financial statements and figures for 1999, 2000 and 2001, and perhaps other periods as well, to properly account for the co-borrowing arrangements is an admission that the financial statements for these periods were false and misleading at the time they were made and that the inaccurate and omitted information therein was material to investors like Huff. The Company has already released preliminary

revised financial results for the fiscal years ended December 31, 2000 and December 31, 2001. Under GAAP, companies may restate financial statements only when there has been a change in the reporting entity, a change in governing accounting principles or a material error in the previously issued financial statements that needs to be corrected. Adelphia's announced restatement clearly has resulted from the need to correct material errors in its previously-reported financial statements, and not from a change in reporting entity or accounting principles. Consequently, by announcing its intention to restate, Adelphia has admitted that its previously-reported financial statements were and are materially false and misleading.

A. Deloitte

184. Deloitte was heavily involved in virtually every aspect of Adelphia's business. Deloitte audited Adelphia's consolidated financial statements and prepared Adelphia's tax returns. In addition, Deloitte provided auditing and accounting services to the Managed Entities and the Rigas Entities. As a result, Deloitte was on both sides of the fence, giving it a complete picture of the finances, operations and business of Adelphia, its subsidiaries, the Managed Entities and the Rigas Entities.

185. As Adelphia's independent auditor, Deloitte's responsibilities spread far beyond the confines of the Company. Investors -- like Huff -- rely on the audits of independent accounting firms like Deloitte when making investment decisions. If Deloitte states it has reviewed a company's books and records, audited their financial statements, and certified that the financial

statements are accurate and prepared in accordance with GAAP, that certification is an assurance to investors that they can safely rely on the data contained in those financial statements. The core of GAAP is the principle that complete financial statements must disclose all material information necessary to fairly and validly represent the underlying events and conditions. Capital markets cannot function properly if investors are unable to rely on auditors' work product.

186. GAAP are those principles recognized by the accounting profession as the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X, 17 C.F.R. § 210.4-01(a)(1), states that financial statements filed with the SEC that are not prepared in conformity with GAAP are presumed to be misleading and inaccurate. As set forth in Financial Accounting Standards Board ("FASB") Statement of Concepts ("Concepts Statement") No. 1, one of the fundamental objectives of financial reporting is that it provide accurate and reliable information concerning an entity's financial performance during the period being presented. Concepts Statement No. 1, ¶42, states:

> Financial reporting should provide information about an enterprise's financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' and creditors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance.

187. Four GAAP standards are of particular relevance to this case. First, SFAS 125 (now SFAS 140) provides that debt can be extinguished from a balance sheet only when (a) the debtor pays its creditor and is relieved of its obligation for the liability, or (b) the debtor is legally released from being the primary obligor under the liability either judicially or by the creditor.

188. Second, GAAP provides specific guidance on how to properly disclose and record loss contingencies in Statement of Financial Accounting Standard ("SFAS") No. 5. Paragraph 8 of SFAS No. 5 provides that:

> An estimated loss from a loss contingency . . . shall be accrued by a charge to income if both the following conditions are met: (a) Information available prior to the issuance of the financial statements indicate that it is probable that . . . a liability had been incurred at the date of the financial statements. It is implicit in this that it must be probable that one or more future events will occur confirming the fact of the loss; (b) The amount of loss can be reasonably estimable.

189. Paragraph 10 of the SFAS No. 5 provides that

> If no accrual is made for a loss contingency because one or both of conditions in paragraph 8 are not met . . . disclosure of the contingency shall be made when there is at least a reasonable possibility that a loss or an additional loss may have been incurred . . . Disclosure is not required of a loss contingency

involving an unasserted claim or assessment when there has been no manifestation by a potential claimant of an awareness of a possible claim or assessment unless it is considered probable that a claim will be asserted and there is a reasonable possibility that the outcome will be unfavorable.

190. Third, GAAP has a specific standard -- SFAS No. 57 -- that governs disclosures of related party transactions, which include transactions between a company and its management, principal owners or affiliates of such parties. To comply with SFAS No. 57, a company's financial statements must disclose certain material information about such transactions, including the nature of the relationships involved, a description of the transactions, the dollar amounts involved and any amounts due to or from a related party as of the date of the balance sheet along with the terms and manner of settlement of such payments. Sufficient information must be disclosed to enable a reviewer of the disclosure to understand the effects of the related party transactions on the financial statements. SFAS No. 57 also prevents an auditor from presuming that a related party transaction was conducted at arms-length.

191. In addition to SFAS No. 57, Item 404 of Regulation S-K requires disclosure of any transaction in an amount greater than $60,000 in which an executive officer of a company has a material interest. The instructions to this section provide that:

> The materiality of any interest is to be determined on the basis of the significance of the information to investors in light of all the

circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

192. Fourth, Emerging Issues Task Force No. 85-1, "Classifying Notes Received for Capital Stock," which is based upon SEC Staff Accounting Bulleting No. 40, Topic 4-E, "Receivables from Sale of Stock," provides that a company that records a note or receivable as payment for its stock should record the note as a reduction to shareholder's equity and not as an asset.

193. Item 303 of Regulation S-K imposes a duty on companies to disclose in their public filings with the SEC "known trends or any known demands, commitments, events or uncertainties" that are reasonably likely to have a material impact on the company's sales revenues, income or liquidity, or cause previously reported financial information not to be indicative of future operating results.

194. In addition to the specific standards discussed above, GAAP also establishes principles that govern sound financial reporting, including:

a. The principle that financial reporting should provide information that is useful to current and potential investors and creditors and others in making rational investment, credit and similar decisions (Concepts Statement No. 1, ¶34);

b. The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and the effects of transactions, events and circumstances that change resources and claims to those resources (Concepts Statement No. 1, ¶40);

c. The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (Concepts Statement No. 1, ¶50);

d. The principle that financial reporting should provide information about an enterprise's financial performance during a period. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' and creditors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (Concepts Statement No. 1, ¶42);

e. The principle that financial reporting should be reliable in that it represents what it purports to represent. That information should be reliable as well as relevant is a notion that is central to accounting (Concepts Statement No. 2, ¶¶58-59);

f. The principle of completeness, which means that nothing is left out of the information that may be necessary to ensure that it validly represents underlying events and conditions (Concepts Statement No. 2, ¶79);

g. The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (Concepts Statement No. 2, ¶¶95, 97);

h. The principle embodied in SFAS No. 57 and Item 404 of Regulation S-K that all material information be disclosed concerning material related party transactions;

i. The principle embodied in Item 303 of Regulation S-K that all known trends or any known demands, commitments, events or uncertainties that are reasonably likely to have a material impact on the company's sales revenues, income or liquidity, or cause previously reported financial information not to be indicative of future operating results be disclosed.

195. In Independent Auditors' Reports made part of the March 1998 10-K, the 1998 10-K, the 1999 10-K and the 2000 10-K, Adelphia's Annual Reports for the years ended March 31, 1996, March 31, 1997 and March 31, 1998, Deloitte represented that, as independent auditor, (1) it had audited Adelphia's consolidated financial statements reported in those public filings in accordance with Generally Accepted Auditing Standards ("GAAS"), (2) Adelphia's

consolidated financial statements fairly presented, in all material respects, the financial position of Adelphia and its subsidiaries and the results of their operations and cash flows for the periods covered by the statements, and (3) the consolidated financial statements had been prepared in accordance with GAAP. Each of these representations was false.

196. In fact, Deloitte did not act as an "independent" auditor. Rather, in order to protect its position as the accountant for Adelphia and its subsidiaries, the Managed Entities and the Rigas Entities, and to maintain its close relationship and secure other business with the Rigas Family, Deloitte compromised its objectivity and independence by actively seeking to protect the wrongful and deceptive conduct of Adelphia and the Rigas Family from disclosure to Huff and the investing public. Moreover, Deloitte failed to conduct its audits of Adelphia's consolidated balance sheets and financial statements in accordance with GAAS.

197. In addition, as discussed below in greater detail, Adelphia's financial statements audited by Deloitte, *inter alia*, (1) failed to adequately disclose material information about the Co-Borrowing Facilities and other related party transactions between Adelphia and its subsidiaries, on the one hand, and the Rigas Family, the Rigas Entities and the Managed Entities, on the other, in violation of SFAS 5 and SFAS 57; (2) failed to disclose any information about the Rigas Family's self-dealing and exploitation of Adelphia's corporate funds and resources for their own purposes; (3) conveyed a totally misleading picture of Adelphia's financial condition and results; (4) reported debt figures that were highly misleading due to Adelphia's

reallocation of co-borrowing debt to Managed Entities in violation of SFAS 125; and (5) contained numerous accounting irregularities, as described in the June 10, 2002 8-K.

198. Adelphia was more than simply a guarantor under the Co-Borrowing Facilities. To the contrary, Adelphia was jointly and severally liable as a primary obligor for repayment of all amounts borrowed under the Co-Borrowing Facilities -- whether nominally borrowed by an Adelphia subsidiary, a Rigas Entity or a Managed Entity. The entire amount outstanding under the Co-Borrowing Facilities at any given time constituted an actual, non-contingent debt of Adelphia and its subsidiaries. Under GAAP, the entire amount of this debt had to be disclosed as part of the consolidated debt figures on Adelphia's balance sheet.

199. Adelphia's pattern of "transferring" or "allocating" co-borrowing debt to Rigas Entities or Managed Entities does not change this result. Under SFAS 140, the co-borrowing debt could only be removed from Adelphia's balance sheet if a borrower repaid it to the co-borrowing lender or if the lender (or a court) released Adelphia from its obligation. Simply declaring that a Rigas Entity, rather than an Adelphia subsidiary, will now be solely responsible for repayment of the debt -- in direct contravention of the terms of the credit agreements making the Adelphia subsidiary a joint obligor -- is woefully inadequate under SFAS 140 to justify not disclosing the debt as debt of Adelphia in the financial statements. Adelphia and Deloitte's failure to disclose in Adelphia's balance sheets co-borrowing debt that was "reallocated" to Rigas Entities thus violated SFAS 140.

200. Moreover, even if the co-borrowing debt is properly considered a contingent liability of Adelphia under SFAS 5, the failure to disclose the full amount of that debt violated GAAP under the facts of this case. The only arguable contingency on Adelphia's obligation to repay the co-borrowing loans (which requires viewing Adelphia as a guarantor and ignoring the fact that Adelphia and its subsidiaries are jointly and severally liable for repayment of the debt under the credit agreements) is the financial wherewithal of the Rigas Entities and Managed Entities. If the Rigas Entities lacked the ability to repay the borrowed amounts, Adelphia would have to repay them. Given the plainly inadequate assets of the Rigas Entities and the Managed Entities in relation to the debt owed, there was a "reasonable possibility" within the meaning of SFAS 5 that Adelphia would be called upon to repay all of the co-borrowed amounts itself. As a result, SFAS 5 required that the full amount of the co-borrowing debt be disclose as debt of Adelphia on the Company's balance sheets.

201. In flagrant violation of SFAS 57 and Item 404 of Regulation S-K, Adelphia's audited financial statements and 10-Ks disclosed no details at all about any of the related party transactions between Adelphia and the Rigas Defendants (or entities under their control). Even where these documents disclosed the existence of some transactions -- such as the Rigases' securities purchases or the co-borrowing facilities -- the disclosures omitted huge amounts of material information. In the case of the co-borrowing arrangements, Adelphia and Deloitte never disclosed even the fact that amounts had been drawn down on the co-borrowing facilities, who borrowed the money, or what the borrower used the money for. In the case of

the securities purchases, Adelphia and Deloitte left out the critical facts that the Rigases either did not give the Company any cash for the securities or simply borrowed the money used to buy the securities from the co-borrowing facilities that Adelphia was responsible to repay.

202. Adelphia's audited financial statements also violated GAAP -- specifically, the principles set forth in Emerging Issues Task Force No. 85-1, "Classifying Notes Received for Capital Stock" -- by failing to reduce Adelphia's reported shareholder's equity as a result of the cashless, sham purchases of Adelphia securities by the Rigases. Because Adelphia received no cash for these purchases, but merely transferred co-borrowing debt and recorded a receivable as payment from the purchasing Rigas Entity, Adelphia should have recorded a reduction to shareholder's equity on its financial statements.

203. In addition to making material misrepresentations and omissions in violation of GAAP, Deloitte failed to conduct a reasonable audit under GAAS. The essence of GAAS is the duty of the auditor to exercise independent professional judgment when conducting an audit. The auditor must exercise "professional skepticism," which means "an attitude that includes a questioning method and critical assessment of audit evidence. The auditor uses the knowledge, skill, and ability called for by the profession of public accounting to diligently perform, in good faith and with integrity, the gathering and objective evaluation of evidence." Codification, AU § 230.

204. Consistent with this requirement of professional skepticism, GAAS requires an auditor to look behind the representations made by a company's management, and instructs auditors that company representations are no "substitute for the auditing procedures necessary to afford a reasonable basis for" the auditor's "opinion on the financial statements." Codification, AU § 333(a). In fact, an auditor must not discount the possibility of fraud or other intentional wrongdoing by management. In fact, GAAS imposes a responsibility on auditors to "plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud." Codification, AU §§ 110, 316.

205. In conducting an audit, "the auditor should obtain an understanding of internal control sufficient to plan the audit by performing procedures to understand the design of controls relevant to an audit of financial statements and determining whether they have been placed in operation." Codification, AU § 319.02. The audit must also involve an evaluation of "the effectiveness of an entity's internal control in preventing or detecting material misstatements in financial statements." Codification, AU § 319.64.

206. GAAS requires auditors to carefully scrutinize transactions between the company and related entities, to obtain as much information about such transactions as is necessary to fully understand their implications for the company's financial statements, and to ensure that the transactions are adequately disclosed to investors. An auditor must "be aware of the possible existence of material related party transactions that could affect the financial

statements and of common ownership or management control relations for which" disclosure is required under GAAP. Codification, AU § 334.04. Consequently, the "auditor should place emphasis on testing material transactions with parties he knows are related to the reporting entity," evaluate "the company's procedures for identifying and properly accounting for related party transactions" and employ procedures to "obtain satisfaction concerning the purpose, nature and extent" of the related party transactions and their impact on the financial statements. Codification, AU § 334.

207. In order to thoroughly vet related party transactions, an auditor must:

- Obtain an understanding of the business purposes of the transaction;

- Examine invoices, executed copies of agreements, contracts, and other pertinent documents, such as receiving reports and shipping documents;

- Determine whether the transaction has been approved by the board of directors or other appropriate officials;

- Test for reasonableness the compilation of amounts to be disclosed, or considered for disclosure, in the financial statements;

- Arrange for audits of intercompany account balances . . . and for the examination of specified, important and representative related party transactions by the auditors for each of

the parties, with appropriate exchange of relevant information;

- Inspect or confirm and obtain satisfaction concerning the transferability and value of collateral;
- With respect to material uncollected balances, guarantees, and other obligations, obtain information about the financial capability of the other party or parties to the transaction;

208. In addition, under GAAS, for each material related party transaction for which GAAP requires disclosure, "the auditor should consider whether he has obtained sufficient competent evidential matter to understand the relationship of the parties and, for related party transactions, the effects of the transaction of the financial statements. He should then evaluate all the information available to him concerning the related party transaction or control relationship and satisfy himself on the basis of his professional judgment that it is adequately disclosed in the financial statements."

209. In violation of GAAS, Deloitte failed to design its audits in such a way as to provide reasonable assurance that material errors would be detected, as required by Statement of Auditing Standards No. 82. Indeed, GAAS sets forth a list of "red flags" that auditors are supposed to look for in attempting to ferret out fraudulent financial reporting. As follows, several of these red flags were in plain sight at Adelphia and should have caused Deloitte to treat Adelphia as a high-risk audit:

Motivations for management to engage in fraudulent financial reporting, including a significant portion of management's total compensation being represented by bonuses, stock options, or other incentives, the value of which was contingent upon the entity achieving unduly aggressive targets for operating results, financial position, or cash flow;

An excessive interest by management in maintaining or increasing the entity's stock price or earnings trend through the use of unusually aggressive accounting practices;

Significant pressure to obtain additional capital necessary to stay competitive considering the financial position of the entity -- including the need for funds to finance major research and development or capital expenditures;

Significant related-party transactions not in the ordinary course of business or with related entities not audited or audited by another firm;

Overly complex organization structure involving numerous or unusual legal entities, managerial lines of authority, or contractual arrangements without apparent business purpose;

Failures by management to display and communicate an appropriate attitude regarding internal control and the financial reporting process, including lack of effective oversight by the Board or Audit Committee; [and]

Unusually high dependence on debt or marginal ability to meet debt repayment requirements; debt covenants that are difficult to maintain[.]

210. Furthermore, Deloitte, in violation of GAAS, failed to obtain sufficient "evidential matter" on which to reasonably base its opinion, and failed to corroborate and confirm the evidence it did obtain.

211. Adelphia has already announced that its financial statements for the years 1999, 2000 and 2001, and possibly other periods must be restated to properly account for at least $2.5 billion in borrowings by the Rigas Family under the Co-Borrowing Facilities, thereby conceding the materiality of this information to investors. Given the existence of co-borrowing arrangements going back to 1996, and the other deceptive practices appearing in Adelphia's financial statements, it can be expected that the data for 1996, 1997 and 1998 will need to be restated as well. Nevertheless, with its audit of its 2001 results still incomplete, Adelphia has fired Deloitte, a clear indication that Adelphia's new non-Rigas management has lost confidence in Deloitte's ability to competently audit the Company' financials.

B. The Underwriter Defendants

212. Adelphia's public offerings of debt securities were managed by underwriters, who purchased notes from Adelphia and re-sold them to Huff and other investors. Like independent auditors, under the federal securities laws underwriters perform a critical prophylactic function for investors. Underwriters, who are often affiliated with large commercial banks, are experts in the securities business and have the

financial and intellectual resources to investigate and evaluate the *bona fides* of a company's public offerings of securities. Underwriters have complete access to the issuer's inside information and the expertise to evaluate it. Moreover, underwriters will hire experts -- like attorneys -- to cover matters about which they lack sufficient knowledge. The securities laws impose a duty on underwriters to do precisely that when they decide to put their name on a particular offering.

213. The array of underwriters on Adelphia's public offerings of debt securities reads like a "who's who" of the investment banking world. Salomon, Credit Suisse, Banc of America and the other Underwriter Defendants are considered the cream of the crop when it comes to underwriting public offerings of securities. When merely one of these underwriters puts its imprimatur on an offering, investors believe they can rely on whatever is said in the offering documents. When a group of underwriters of this caliber does so -- as happened repeatedly on Adelphia's offerings -- the assurance provided to investors is all the more substantial. Investors rely on underwriter integrity, and the underwriters that participated in Adelphia's offerings would not have risen to the top of their industry had they not gained investor confidence.

214. By associating themselves with a particular offering, underwriters make a representation to potential investors that: (1) the underwriters have conducted an investigation of the offering and the issuer in accordance with prevailing professional standards; (2) the investigation conducted by the underwriters was designed to probe and verify the accuracy of the statements and data provided by the issuer, and was not merely based on blind reliance

upon those statements and data; and (3) based on that investigation, the underwriters have concluded that the representations made in the registration statement and prospectus for the offerings are true, accurate and complete. Stated differently, an underwriter's name on a registration statement or prospectus is a representation to investors that they can rely on the accuracy and completeness of what is contained in those documents.

215. While hardly an exhaustive list, an underwriter's "due diligence" investigation -- conducted with the assistance of a law firm -- in connection with a public offering includes, *inter alia*: (1) attending presentations by the issuer's management; (2) asking questions of management, as well as of the issuer's auditors and lawyers; (3) requesting, reviewing and analyzing the issuer's financial statements and data, internal documents, corporate books and records and business plans, whether or not publicly available; (4) conducting site visits of the issuer's operations and facilities; (5) speaking with the issuer's customers, competitors and lenders to obtain an accurate picture of the issuer's condition and competitive environment; (6) examining the issuer's prior public offerings; (7) examining each and every material contract affecting the issuer; (8) evaluating the accuracy and support available for each and every statement contained in the offering documents; and (9) comprehensively evaluating all aspects of the issuer's operations -- capital structure, sales, marketing, facilities, infrastructure, labor force, management, financing, major contracts, legal, accounting issues and litigation.

216. The Underwriter Defendants were named in and participated in the drafting and preparation of the registration statements and prospectuses used in connection with the November 1999 Offering, the September 2000 Offering, the June 2001 Offering and the October 2001 Offering. The Underwriter Defendants owed a duty to make a reasonable and diligent investigation of the statements contained in these registration statements and prospectuses. Indeed, the Underwriter Defendants were obligated to review and verify the statements in each and every paragraph and sentence of these documents to ensure their accuracy and completeness.

217. As described below in greater detail, the registration statements and prospectuses used in connection with the November 1999 Offering, the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering contained numerous material misrepresentations and omissions concerning the financial condition and results of Adelphia, the transactions between Adelphia and its subsidiaries, on the one hand, and the Rigas Family, the Rigas Entities and the Managed Entities, on the other, and the Rigas Family's self-dealing and exploitation of Adelphia's corporate funds and resources for their own purposes. The Underwriter Defendants failed to conduct a reasonable investigation and reasonable due diligence with respect to these offerings, and, as a consequence, failed to detect or correct the material misrepresentations and omissions contained in the registration statements and prospectuses for these offerings.

218. The Underwriter Defendants, as disclosed by the prospectuses for these offerings, received

compensation for their services in connection with the following public offerings, not including offering expenses, as follows:

Offering	Principal Amount of Securities	Underwriter Compensation
October 1999 Class A Common Stock	6,000,000 shares	$12,000,000
November 1999 9 3/8% Notes	$500,000,000	$3,980,000
September 2000 10 7/8% Notes	$750,000,000	$11,250,000
January 2001 6% Convertible Subordinated Notes	$750,000,000	$20,625,000
January 2001 Class A Common Stock	17,000,000 shares	$30,430,000
April 2001 3.25% Convertible Subordinated Notes	$500,000,000	$11,250,000
June 2001 10 ¼% Notes	$1,000,000,000	$20,000,000
October 2001 10 1/4% Notes	$500,000,000	$14,195,000

Offering	Principal Amount of Securities	Underwriter Compensation
November 2001 7.5% Series E Mandatory Convertible Preferred Stock	12,000,000 shares	$9,000,000
November 2001 Class A Common Stock	30,000,000 shares	$28,800,000
January 2002 7.5% Series F Mandatory Convertible Preferred Stock	20,000,000 shares	$15,000,000
January 2002 Class A Common Stock	40,000,000 shares	$12,000,000
Total:		$188,530,000

219. These amounts, while extremely large, did *not* even include fees Adelphia paid to the Underwriter Defendants for advisory work or commercial banking services provided by affiliates of the Underwriter Defendants.

C. The Bank Defendants.

220. The Bank Defendants extended several billion dollars in bank loans -- including co-borrowing facilities -- to Adelphia subsidiaries and Managed Entities. Adelphia depended on these loans to provide the liquidity necessary to finance its operations and

the nefarious deeds described herein. Moreover, all of the Bank Defendants had affiliated Underwriter Defendants that rendered significant underwriting, investment banking, and other advisory services to Adelphia and the Rigas Family. The following list sets forth each commercial bank (including the Bank Defendants) and its corresponding Underwriter Defendant investment bank affiliate:

Agent Bank Investment	**Bank Affiliate**
BofA	Banc of America
Bank of Montreal	BMO
Wachovia	Wachovia Securities[13]
Citibank/Citicorp	Salomon
ABN AMRO Bank	ABN AMRO
BONY	BNY
BNS	Scotia Capital
Societe Generale	Cowen
PNC Bank	PNC
TDI	TD Securities
Chase Bank	J. P. Morgan
CSFB	Credit Suisse
BB	Barclay's

[13] Wachovia Securities is not a defendant in this matter.

Agent Bank Investment	**Bank Affiliate**
CI	CIBC
CL	Credit Lyonnais
Fleet Bank	Fleet
DBAG	Deutsche Bank
SunTrust Bank	SunTrust
The Royal Bank[14]	

221. Beginning long before the events that gave rise to this litigation occurred, the Bank Defendants and Underwriter Defendants developed a close relationship with Adelphia and the Rigas Family. Shortly after the Company's initial public offering in 1986, Adelphia, through the Rigas Family, began to establish significant relationships with each of the Bank Defendants and the Underwriter Defendants. Over the next sixteen years, many of the Bank Defendants and their affiliated Underwriter Defendants provided significant debt and equity financing, underwriting, investment banking advice and other financial services to Adelphia, to certain of the Managed Entities and RFEs, and directly to members of the Rigas Family. Indeed, the Bank Defendants and the Underwriter Defendants were

[14] The Royal Bank did not use an investment banking affiliate in its dealings with Adelphia, but rather both participated as a lender in several credit facilities and acted as an underwriter for several bond offerings.

intimately involved, on a non-arms length basis, in the financial affairs of Adelphia and the Rigas Family.

222. Thus, the Bank Defendants -- acting in concert with their Underwriter Defendant affiliates -- did much more than just lend money to Adelphia on a purportedly arms- length basis. Several Underwriter Defendants rendered substantial financial advisory services to Adelphia and, after reviewing Adelphia's confidential and proprietary information, advised Adelphia on financing acquisitions and their business plans. For example, Banc of America and Salomon acted as mergers and acquisitions advisors to Adelphia for various acquisitions of cable systems around the country. In connection with those services, Banc of America and Salomon had their Bank Defendant affiliates, BOA and Citibank, offer bridge loans to finance Adelphia's acquisitions.

223. Each Bank Defendant shared a unity of interest, conspired, and acted in concert with its affiliated Underwriter Defendant with respect to transactions related to Adelphia and the Rigas Family. In fact, each Bank Defendants and its affiliated Underwriter Defendantroup, Citibank and Salomon functioned as one monolithic entity in their dealings with Adelphia.

224. The Underwriter Defendants and affiliated Bank Defendants shared all material information about the Debtors' businesses and finances. Securities analysts and investment bankers at each Underwriter Defendant freely exchanged information about Adelphia with commercial banking personnel at the corresponding Bank Defendant involved in the provision of loans and commercial banking services to

Adelphia. Indeed, Adelphia's underwriting agreements with the Underwriter Defendants apparently authorized information-sharing between the Underwriter Defendants and their Bank Defendant affiliates. One of these underwriting agreements provided that:

> The Investment Banks may . . . share any Offering Document, the Information and any other information or matters relating to Company, any assets to be acquired or the transactions contemplated hereby with Bank of America, N.A. ("BofA") and Citibank, N.A. (together with SSBI, "Citi/SSB") and BofA and Citi/SSB affiliates may likewise share information relating to Company, such assets or such transaction with the Investment Banks.

225. In addition to sharing information, each Bank Defendant worked as a team with its respective Underwriter Defendant affiliate to provide "one stop shopping" financial services to Adelphia and ensure that they extracted maximum fee income from Adelphia. For example, Banc of America "deal teams" for many Adelphia securities offerings included employees of both Banc of America and BOA. The December 21, 2000 agreement pursuant to which Adelphia retained Banc of America to act as, among other things, its investment advisor, states: "For purposes of this engagement letter, 'BAS' shall mean Banc of America Securities LLC and/or any affiliate thereof, including BofA, as BAS shall determine to be appropriate to provide the services contemplated herein[.]"

226. Similarly, in performing the acts described herein, Citibank, Citicorp, Citigroup, Salomon and their affiliates acted together in pursuit of a common plan, such that each acted on behalf of, and as the agent for, the others. Among other things, these defendants shared information and worked as a "team" to obtain investment bank engagements and to extend credit to Adelphia, including presenting themselves to Adelphia as a single provider of financing and related services and products. As part of this approach, Citibank and its affiliates at times conditioned the extension of credit by one or more of them to Adelphia and the Rigas Family on Adelphia's engaging another of them to provide investment banking services, and *vice versa*.

227. The Bank Defendants and their Underwriter Defendant affiliates also ignored any real distinction between lending and investment banking divisions in their dealing with the Debtors and the Rigas Family. Adelphia deal teams for these entities also included employees from both lending and investment banking groups

228. Moreover, the Bank Defendants and the Underwriter Defendants made no meaningful distinction between Adelphia, the Rigas Family, and the Managed Entities. Indeed, they realized that the key to doing business with Adelphia was to satisfy the personal financial whims of the Rigas Family. For example, in internal documents, BOA and Banc of America and Bank of Montreal and BMO often referred to their business with Adelphia and the Rigas Family as part of a "Rigas Family" connection, and Citibank and its affiliates often referred to Adelphia and the Rigas Family interchangeably.

229. Many of the co-borrowing and other credit facilities extended to Adelphia and the Rigas Family by the Bank Defendants contained terms -- such as duration, interest rates, re-payment conditions, etc. -- that were extremely favorable to the borrowers. The Bank Defendants acceded to these terms because of the promise of lucrative fees to the Underwriter Defendants, which was their primary motivation in their dealings with Adelphia. The "Rigas Family" connection was extremely lucrative for each of the Bank Defendants and the Underwriter Defendants.

230. To obtain these lucrative fees, many of the Bank Defendants approved the co-borrowing facilities even though their total credit exposure to Adelphia and the Rigas Family exceeded lending policy limits. In almost every instance when this occurred, each of the Bank Defendants approved a special exception to the exposure limit principally based on the fees to be earned by their affiliated Underwriter Defendant. For example, Bank of Montreal approved its participation in the Olympus Co-Borrowing Facility despite exceeding its house exposure limit for Adelphia and the Rigas Family by more than $200 million. Bank of Montreal approved this enormous exposure limit exception based upon, among other things, its frustration at being excluded from a $1.3 billion bridge loan to an Adelphia subsidiary and related securities offerings -- which went to Defendants BOA/Banc of America, Citibank/Salomon and others -- and by its desire to obtain a lead role for BMO in underwriting future Adelphia securities offerings.

231. Wachovia and Citibank also authorized exposure exceptions in connection with their approval of the Olympus Co-Borrowing Facility and justified

those exceptions based upon "future capital markets opportunities." Based on a similar motive, Salomon authorized margin loans for the Rigas Family that were outside house limits.

232. The Rigas Defendants clearly recognized that offering the enticement of investment banking fees would cause the Bank Defendants to participate in the co-borrowing facilities. In his February 17, 2000 letter to certain Bank Defendants regarding the CCH Co-Borrowing Facility, James Brown stated that:

> All of the lead managers and co-managers of each of these credit facilities are expected to have an opportunity to play a meaningful role in either the ADLAC or ABIZ public security offerings.

(emphasis added). Thus, by agreeing to participate in the CCH Co-Borrowing Facility, among others, these banks all but insured that their affiliated Underwriter Defendants would garner substantial fees.

233. In addition to generating fees for the Underwriter Defendants, however, Adelphia's public offerings of equity and debt securities enabled the Bank Defendants to transfer the risk that Adelphia would default on its credit obligations from the Bank Defendants to investors like Huff. Adelphia used the proceeds of its public offerings to pay off existing bank debt owed to the Bank Defendants. Indeed, part of the reason the Bank Defendants approved loans to Adelphia and the Rigas Family in excess of internal lending limits was because the Bank Defendants could use public offerings of Adelphia securities underwritten by their Underwriter Defendant

affiliates as an "escape hatch" to manage the additional credit risk these loans posed.

234. Consequently, in addition to lending Adelphia, the Rigas Family and the Managed Entities billions of dollars in funds under the co-borrowing facilities and other credit arrangement and offering substantial advice to assist them in accessing the commercial lending and capital markets, the Bank Defendants -- through their Underwriter Defendant affiliates -- induced and structured numerous public offerings of Adelphia debt securities -- including the June 1999 Offering, the November 1999 Offering, the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering. The Bank Defendants each had a "direct or indirect participation" in the distribution of Adelphia securities issued in these offerings and, therefore, acted as underwriters for these offerings within the meaning of the Securities Act.

D. The Lawyers.

1. Buchanan.

235. Buchanan served as Adelphia's long-time outside counsel. In this capacity, Buchanan provided legal services to Adelphia in connection with the Company's efforts to raise money from investors on the capital markets. Specifically, Buchanan provided written legal opinions to Adelphia that the notes it issued to investors in public offerings were "duly authorized," "valid" and "validly issued." In addition, Buchanan prepared, drafted, reviewed and/or approved each of Adelphia's registration statements, prospectuses, 10-Ks, 10-Qs and 8-Ks issued from 1997

to the present. As discussed below, these documents contained numerous material misrepresentations which Huff read, reviewed and relied upon to its detriment in making the decision to purchase Adelphia securities.

a) Buchanan's Opinion Letters.

236. Item 601 of SEC Regulation S-K requires an issuer conducting a public offering of new securities to attach to the securities' registration statement an "opinion of counsel as to *the legality of the securities* being registered, indicating whether they will, when sold, be *legally issued*, . . . and, if debt securities, whether they will be binding obligations of the registrant." 17 C.F.R. § 229.601(b)(5) (emphasis added). Consistent with this regulation, and to enable Adelphia to complete the offerings, Buchanan provided letters (the "Buchanan Opinion Letters") opining as to the validity of the notes Adelphia's sold to investors in the June 1999 Offering, the November 1999 Offering, the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering. Buchanan attached these opinion letters as exhibits to those offerings' registration statements.

237. In addition to complying with Regulation S-K, Buchanan's opinion letters were intended to provide comfort to investors, like Huff, that Adelphia was issuing the notes in compliance with the covenants contained in the indentures governing the current and all prior note issues. As a cable operator, Adelphia had a great need for capital to fund the costly development and maintenance of its cable systems. Accordingly, it came to the capital markets frequently to borrow money from public investors through note offerings.

The indentures that governed the notes issued in these offerings had numerous covenants that were vital to investors -- covenants which Adelphia was bound to observe both at issuance and thereafter.

238. First, the indentures contained a "Limitation on Indebtedness" covenant which prohibited Adelphia from incurring additional debt that would cause Adelphia's total consolidated debt on an annualized, pro forma basis to exceed 8.75 x Adelphia's EBITDA. This limitation was important because it ensured that Adelphia would not become "over-leveraged," thereby jeopardizing the creditworthiness of the notes. If Adelphia was not in compliance with the debt ratio, new bonds could not be validly issued.

239. Second, the indentures contained a "Limitation on Transactions with Affiliates" covenant which, among other things, prohibited Adelphia from engaging in any transaction with an affiliate -- which by definition included the Rigases and the Managed Entities -- on terms less favorable than what could be obtained in a comparable arm's-length transaction with a non-affiliate. This covenant was particularly important in the case of Adelphia, because the Rigas Family's domination of the Company, coupled with their ownership of the Managed Entities, created huge potential for self-dealing.

240. Huff considered Adelphia's compliance with its covenants to be a fact of critical importance to its decision to purchase Adelphia securities. Huff would not have purchased Adelphia notes had it known at the time of purchase that Adelphia was in default of its covenant obligations, that Adelphia had issued the

notes in violation of the covenants, or that the notes were not duly authorized, valid or validly issued.

241. To provide comfort to investors that Adelphia was complying with its indenture covenants as well as satisfy Regulation S-K, whenever Adelphia issued new securities to the public, Buchanan provided a written expert legal opinion on the validity of the bonds. This expert opinion appeared in two places for each offering. In the section entitled "Legal Matters," the prospectuses for each of those offerings represented -- with Buchanan's consent -- that the "validity of the Notes will be passed upon for [Adelphia] by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania." From the perspective of a reasonable investor like Huff, this statement constituted a representation by Buchanan that (1) it would determine whether the notes were valid prior to their being issued to the public, and (2) if it determined the notes were not valid, Adelphia would not complete the offering.

242. In addition, the Buchanan Opinion Letters attached to the registration statements and prospectuses -- with Buchanan's express written consent -- represented to investors that the notes were valid and complied with all applicable indenture covenants. All of the Buchanan Opinion Letters say essentially the same thing. First, they say that Buchanan examined all the information necessary to the "bases" for its opinion. Buchanan represented that it conducted an investigation of the relevant facts by "examin[ing] originals or copies, certified or otherwise identified to our satisfaction, of such documents, certificates or records as we have deemed necessary or appropriate as bases for the opinion" contained in the

letters. Each letter then states that the notes will be validly issued:

> When (a) the issuance, execution and delivery by the Company of any of the Debt Securities shall have been duly authorized by all necessary corporate actions of the Company, and (b) Debt Securities shall have been duly executed and delivered by the Company, authenticated by the Trustee (the "Trustee") under the indenture (the "Indenture") pursuant to which the Debt Securities shall be issued and sold as contemplated by each of the Registration Statement, the Prospectus, and any prospectus supplement relating to such Debt Securities and the Indenture, assuming that the terms of such Debt Securities issued are in compliance with then applicable law, *such Debt Securities will be validly issued* and will constitute valid and binding obligations of the Company enforceable against the Company in accordance with their terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally and by general principles of equity and judicial discretion, including principles of commercial reasonableness, good faith and fair dealing (whether considered in a proceeding at law or in equity).

[emphasis added].

243. Thus, for each Adelphia offering, Buchanan gave an unqualified opinion that the bonds issued to the public by Adelphia were "duly authorized by all

necessary corporate actions of the Company," were "validly issued" and constituted "valid and binding obligations of the Company enforceable against the Company in accordance with their terms." As discussed in the following chart, Buchanan rendered these or similar opinions in connection with at least eighteen Adelphia securities offerings since February 1997, comprising more than $ 9.5 billion in offerings.

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
January 2002 Class A Common Stock	40,000,000 shares $1,020,000,000	Salomon Smith Barney	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
January 2002 7.5% Series F Mandatory Convertible Preferred Stock	20,000,000 shares $500,000,000	Salomon Smith Barney	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
November 2001 Class A Common Stock	30,000,000 shares $645,000,000	Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
November 2001 7.5% Series E Mandatory Convertible Preferred Stock	12,000,000 shares $300,000,000	Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
October 2001 10 1/4% Notes	$500,000,000	Credit Suisse First Boston	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
June 2001 10 ¼% Notes	$1,000,000,000	Salomon Smith Barney; Banc of America	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
April 2001 3.25% Convertible Subordinated Notes	$500,000,000	Salomon Smith Barney; Banc of America	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
January 2001 Class A Common Stock	17,000,000 shares $760,750,000	Salomon Smith Barney; Banc of America	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
January 2001 6% Convertible Subordinated Notes	$750,000,000	Salomon Smith Barney; Banc of America	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
September 2000 10 7/8% Notes	$750,000,000	Salomon Smith Barney; Banc of America	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
November 1999 9 3/8% Notes	$500,000,000	Salomon Smith Barney; Credit Suisse First Boston	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
October 1999 Class A Common Stock	6,000,000 shares $342,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
April 1999 5 1/2% Series D Convertible Preferred Stock	2,500,000 shares $500,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
April 1999 7 7/8% Notes	$350,000,000	Salomon Smith Barney; Chase Securities, Inc.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
April 1999 Class A Common Stock	8,000,000 shares $494,000,000	Salomon Smith Barney; Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for us by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
January 1999 Class A Common Stock	4,000,000 shares $180,000,000	Goldman, Sachs & Co.	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for Adelphia by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
August 1998 Class A Common Stock	4,100,000 shares $131,200,000	Salomon Smith Barney; Goldman, Sachs & Co.; NationsBanc Montgomery Securities LLC	Buchanan Ingersoll Professional Corporation	"The legality of the [securities] offered hereby will be passed upon for the Company by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."

Offering	Principal Amount of Securities	Lead Underwriter(s)	Issuers' Counsel	Legal Opinion in Prospectus
February 1997 9 7/8% Notes	$350,000,000	Salomon Smith Barney	Buchanan Ingersoll Professional Corporation	"The validity of the [securities] will be passed upon for Adelphia by Buchanan Ingersoll Professional Corporation, Pittsburgh, Pennsylvania."
Total Public Capital Raised: $ 9,572,950,000.				

244. Accordingly, for each offering of Adelphia notes at issue in this cases, Buchanan "passed on the validity of the bonds" in the registration statement and represented in its opinion letters that the bonds issued in Adelphia's public offerings were "duly authorized," "valid" and "validly issued." These statements were representations by Buchanan that the notes did not violate covenants in the indentures governing either those bonds or notes that Adelphia had previously issued. Unlike stock, bonds by law (specifically, the Trust Indenture Act, 15 U.S.C. § 77aaa *et seq.*) are issued pursuant to indentures which contain restrictions that bind the Company for the protection of investors. These protections constitute a critical component of the benefits that an investor obtains when purchasing the bonds. Accordingly, when a bond's issuance breaches the indenture covenants pursuant to which it is offered or other existing indentures, it is not a "valid" debt instrument, nor has it been "validly issued." No reasonable investor would consider a bond that violates the terms of the very indenture under which it is issued to be valid or validly issued. The same holds true for a bond that was issued in violation of prohibitions contained in indentures for previously issued bonds.

245. In order to pass on the validity of the bonds and issue the Buchanan Opinion Letters, Buchanan was required to conduct a reasonable investigation of the facts and circumstances surrounding each of these offerings -- including a legal analysis of the covenants contained in the indentures for prior offerings and an evaluation of whether Adelphia remained in compliance with those covenants.

246. Buchanan's opinions, as expressed in both the "Legal Matters" section of the prospectuses and in the Buchanan Opinion Letters, were false and materially misleading, because the notes Adelphia issued after early 2000 violated numerous indenture covenants. When the debts for which Adelphia was liable under the co-borrowing facilities are properly taken into account, Adelphia's total debt exceeded the Limitation on Indebtedness covenant's 8.75 x EBITDA restriction at least by the beginning of 2000 and likely during prior periods as well. While in violation of this covenant, Adelphia was prohibited from issuing new bonds unless it either paid off some existing debt or increased its earnings to come back into compliance with the covenant.

247. Adelphia also repeatedly violated the "Limitation on Transactions with Affiliates" covenant. The Rigases (who, as noted above, are Adelphia affiliates for purposes of the covenant) engaged in self-dealing of unprecedented breadth. The most obvious example of improper affiliate transactions were, of course, the co-borrowing arrangements, under which non-Adelphia entities controlled by the Rigases obtained access to Adelphia's credit for their own private purposes, while leaving Adelphia on the hook to repay the loans. These transactions conferred no benefit on Adelphia whatsoever, and no rational Board member would ever have considered entering into such an arrangement with a non-affiliate on such terms.

248. None of this chicanery was ever disclosed to investors. Instead, Adelphia sold more and more securities to an unsuspecting public, in some instances coming to the securities market seven times in a single year. However, because Adelphia had reached its debt

ceiling and violated the affiliate transaction and restricted payment covenants, it had no legal authority -- and, indeed, was legally prohibited -- from issuing new bonds to the public in the September 2000 Offering, the January 2001 Offering, the June 2001 Offering, the October 2001 Offering and likely in earlier public offerings. With existing indentures in default (though the defaults remained undisclosed), notes issued under new indentures could not be valid. Therefore, the notes that were issued could not have been "duly authorized," "validly issued" or "valid." Over the relevant period, Huff purchased hundreds of millions of dollars worth of Adelphia bonds that were neither valid nor validly issued.

249. At an absolute minimum, Buchanan's opinions were materially misleading because they failed to disclose the material fact that Adelphia was prohibited from issuing the bonds under existing indenture covenants and had otherwise committed serious and repeated violations of those covenants.

250. These misrepresentations and material omissions resulted from Buchanan's failure to conduct a reasonable investigation. Given Buchanan's extensive experience and expertise concerning Adelphia's business, even minimal due diligence would have revealed to Buchanan that Adelphia: (1) had flagrantly and repeatedly breached the covenants in the indentures for its prior offerings restricting transactions with affiliates; (2) had breached the covenants in the indentures for its private offerings restricting, *inter alia*, indirect acquisitions by the Company of Adelphia indebtedness subordinate to the notes being issued or of Adelphia capital stock; and (3) by early 2000 had incurred total indebtedness

exceeding the threshold contained in the indenture covenants limiting the amount of indebtedness Adelphia could incur.

251. By issuing the Buchanan Opinion Letters and agreeing to the representation in the "Legal Matters" section of the prospectuses and registration statements that it would be passing on the validity of the notes, Buchanan misrepresented the validity of the notes issued in the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering. Adelphia issued the September 2000 notes, the January 2001 notes, the June 2001 notes and the October 2001 notes in direct violation of the restrictive covenants contained in the indenture agreements for Adelphia's prior senior note issues. In addition, on information and belief, contrary to the representations of Buchanan, all six offerings from which Huff purchased Adelphia debt securities were issued in derogation of indenture covenants against affiliate transactions and restricted payments to Adelphia subsidiaries.

b) Buchanan's Role in Adelphia's False SEC Filings.

252. As is commonly the case among publicly traded companies, Buchanan, as issuer's counsel, had a prominent role in the drafting and preparation of Adelphia's SEC filings. Buchanan drafted, prepared, reviewed and approved Adelphia's 10-Ks for the years ending December 31, 1998, 1999 and 2000, as well as the 10-Qs issued for the quarterly periods during those years and 2001. Buchanan's responsibilities in drafting, preparing, reviewing and approving these documents included conducting a reasonable

investigation to confirm that these documents did not contain any false or materially misleading statements.

253. As discussed further below, each of these filings contained numerous false statements and were materially misleading due to the omission of numerous material facts. Huff read, reviewed and relied on each of these false and misleading statements in making the decision to purchase Adelphia securities.

254. By drafting, preparing, reviewing and approving the 10-Ks and 10-Qs described above, Buchanan caused material misstatements and omissions to be made in those filings.

2. Latham.

255. Although many different Underwriter Defendants sold Adelphia securities to public investors, Latham served as counsel to the underwriters *in every single offering*. Indeed, in the year 2001, Adelphia had four different lead underwriters in seven separate offerings, but Latham acted as counsel to each of them. In fact, as the following chart indicates, Latham has acted as underwriters' counsel in *every* Adelphia offering -- equity, junior bonds or senior notes for at least five years. Latham -- as underwriters' counsel for over $ 9.5 billion in securities offerings -- was arguably the defendant most intimately involved in the entire offering process. Latham's repeated involvement in Adelphia's public offerings enabled it to develop extensive expertise about virtually every aspect of Adelphia's business.

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
January 2002 Class A Common Stock	40,000,000 shares– $1,020,000,000	Salomon Smith Barney	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriter by Latham & Watkins, New York, New York."
January 2002 7.5% Series F Mandatory Convertible Preferred Stock	20,000,000 shares $500,000,000	Salomon Smith Barney	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriter by Latham & Watkins, New York, New York."
November 2001 Class A Common Stock	30,000,000 shares $645,000,000	Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
November 2001 7.5% Series E Mandatory Convertible Preferred Stock	12,000,000 shares $300,000,000	Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of Goldman, Sachs & Co. by Latham & Watkins, New York, New York."
October 2001 10 1/4% Notes	$500,000,000	Credit Suisse First Boston	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
June 2001 10 1/4% Notes	$1,000,000,000	Salomon Smith Barney; Banc of America	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
April 2001 3.25% Convertible Subordinated Notes	$500,000,000	Salomon Smith Barney; Banc of America	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
January 2001 Class A Common Stock	17,000,000 shares $760,750,000	Salomon Smith Barney; Banc of America	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
January 2001 6% Convertible Subordinated Notes	$750,000,000	Salomon Smith Barney; Banc of America	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
September 2000 10 7/8% Notes	$750,000,000	Salomon Smith Barney; Banc of America	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
November 1999 9 3/8% Notes	$500,000,000	Salomon Smith Barney; Credit Suisse First Boston	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
October 1999 Class A Common Stock	6,000,000 shares $342,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
April 1999 5 1/2% Series D Convertible Preferred Stock	2,500,000 shares $500,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
April 1999 7 7/8% Notes	$350,000,000	Salomon Smith Barney; Chase Securities, Inc.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."
April 1999 Class A Common Stock	8,000,000 shares $494,000,000	Salomon Smith Barney; Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

Offering	Amount of Securities	Lead Underwriter(s)	Underwriters' Counsel	Legal Opinion in Prospectus
January 1999 Class A Common Stock	4,000,000 shares $180,000,000	Goldman, Sachs & Co.	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of Goldman, Sachs & Co. by Latham & Watkins, New York, New York."
August 1998 Class A Common Stock	4,100,000 shares $131,200,000	Salomon Smith Barney; Goldman, Sachs & Co.; NationsBanc Montgomery Securities LLC	**Latham & Watkins**	"Certain legal matters will be passed upon for the Underwriters by Latham & Watkins, New York, New York."
February 1997 9 7/8% Notes	$350,000,000	Salomon Smith Barney	**Latham & Watkins**	"The validity of the [securities] offered hereby will be passed upon on behalf of the Initial Purchaser by Latham & Watkins, New York, New York."
Total Public Capital Raised: $9,572,950,000. (Rolnick Aff., Exs. O to FF).				

256. As discussed above, the Underwriter Defendants' primary function was to scrutinize each and every prospectus representation, deeply investigate Adelphia's business and provide the investing public with confidence that Adelphia had been thoroughly vetted. The Underwriter Defendants relied heavily on Latham for accomplishing this vital task. Latham conducted legal due diligence on behalf of the underwriters, and drafted or participated in the drafting of each false and misleading prospectuses the underwriters used to sell Adelphia bonds to the public. Latham received substantial legal fees for its services.

257. Not only was Latham intimately involved in the underwriters' due diligence, but it issued a key legal opinion in connection with each offering of Adelphia notes. Without Latham's opinion, in fact, no offering would have closed. The underwriters could only offer new notes if permitted under Adelphia's existing note indentures. Before selling notes to the public, it was *necessary* that the underwriters confirm to the investing public that the notes would be "valid," which must encompass compliance with Adelphia's legal obligations. The underwriters expressly chose not to rely on the opinion of Adelphia's counsel, Buchanan Ingersoll, as to the notes' validity, but hired Latham to give them a separate opinion on this issue.

258. Latham provided this opinion to the underwriters for the benefit of the investors. Although Latham did not disclose -- and Huff did not review -- the actual opinion letters to investors, Latham did represent to prospective investors in the Adelphia notes that before any bonds were sold, it would render a legal opinion passing on the validity of the bonds. Accordingly, and as set forth in the above chart, the

"Legal Matters" section of each registration statement and prospectus reviewed and relied upon by Huff in making its decision to purchase Adelphia securities states: "The validity of the Notes offered hereby will be passed upon on behalf of the underwriters by Latham & Watkins, New York, New York."

259. This statement -- which was written and approved by Latham or otherwise appeared was made with Latham's consent -- communicates to a reasonable investor that, before the bonds are actually issued for sale to investors, Latham will have rendered a legal opinion passing on their validity. That means that Latham examined the various relevant legal issues -- including compliance with the covenants in the indentures -- to make sure that the bonds "passed" compliance before being sold publicly. Given Latham's reputation as one of the largest and most experienced law firms in the country, a reasonable investor would naturally take substantial comfort from Latham's representation that Adelphia's indenture covenants permitted the issuance of the bonds. Moreover, the bonds simply could not have come to market without Latham's sign-off as to their validity. Latham could not have allowed the underwriters to proceed with a securities offering had it determined the securities were not valid.

260. Huff reviewed the representations in the registration statements and prospectuses and relied on the fact that before the bonds were sold, Latham determined that the bonds were valid.

261. Accordingly, for each offering of Adelphia notes at issue in this case, Latham "passed on the validity of the bonds." This statement constituted a

representation by Latham that the notes did not violate covenants in the indentures governing either those bonds or notes that Adelphia had previously issued. Unlike stock, bonds by law are issued pursuant to indentures which contain restrictions that bind the Company for the protection of investors. These protections constitute a critical component of the benefits that an investor obtains when purchasing the bonds. Accordingly, when a bond's issuance breaches the indenture covenants pursuant to which it is offered or other existing indentures, it is not a "valid" debt instrument. No reasonable investor would consider a bond that violates the terms of the very indenture under which it is issued to be valid. The same holds true for a bond that was issued in violation of prohibitions contained in indentures for previously issued bonds. Latham, in the course of evaluating the validity of the bonds Adelphia issued, had an obligation to ascertain the notes' compliance with the indentures.

262. The representations in the registration statements and prospectuses that Latham would pass on the validity of the bonds were made with Latham's consent. Latham drafted, reviewed and approved the contents of each of the registration statements and prospectuses. Latham would not have permitted the prospectuses to be issued to investors if it objected to its being named as having passed on the validity of the notes. In fact, the opposite was true: Latham was identified by name in the prospectuses *precisely* because its reputation would influence investors like Huff to participate in the securities offering.

263. In order to pass on the validity of the notes, Latham was required to conduct a reasonable

investigation of the facts and circumstances surrounding each of these offerings -- including a legal analysis of the covenants contained in the indentures for prior offerings and an evaluation of whether Adelphia remained in compliance with those covenants.

264. Latham's representations that the notes were valid opinion, as expressed in both the "Legal Matters" section of the registration statements and prospectuses, were false and materially misleading, because the notes Adelphia issued after early 2000 violated numerous indenture covenants. When the debts for which Adelphia was liable under the co-borrowing facilities are properly taken into account, Adelphia's total debt exceeded the Limitation on Indebtedness covenant's 8.75 x EBITDA restriction at least by the beginning of 2000 and likely during prior periods as well. While in violation of this covenant, Adelphia was prohibited from issuing new bonds unless it either paid off some existing debt or increased its earnings to come back into compliance with the covenant.

265. Adelphia also repeatedly violated the "Limitation on Transactions with Affiliates" covenant. The Rigases (who, as noted above, are Adelphia affiliates for purposes of the covenant) engaged in self-dealing of unprecedented breadth. The most obvious example of improper affiliate transactions were, of course, the co-borrowing arrangements, under which non-Adelphia entities controlled by the Rigases obtained access to Adelphia's credit for their own private purposes, while leaving Adelphia on the hook to repay the loans. These transactions conferred no benefit on Adelphia whatsoever, and no rational Board

member would ever have considered entering into such an arrangement with a non-affiliate on such terms.

266. None of this chicanery was ever disclosed to investors. Instead, Adelphia sold more and more securities to an unsuspecting public, in some instances coming to the securities market seven times in a single year. However, because Adelphia had reached its debt ceiling and violated the affiliate transaction and restricted payment covenants, it had no legal authority -- and, indeed, was legally prohibited -- from issuing new bonds to the public in the September 2000 Offering, the January 2001 Offering, the June 2001 Offering, the October 2001 Offering and likely in earlier public offerings. With existing indentures in default (though the defaults remained undisclosed), notes issued under new indentures could not be valid. Therefore, the notes that were issued could not have been "duly authorized," "validly issued" or "valid." Over the relevant period, Huff purchased hundreds of millions of dollars worth of Adelphia bonds that were neither valid nor validly issued.

267. At an absolute minimum, Latham's representations were materially misleading because they failed to disclose the material fact that Adelphia was prohibited from issuing the bonds under existing indenture covenants and had otherwise committed serious and repeated violations of those covenants.

268. These misrepresentations and material omissions resulted from Latham's failure to conduct a reasonable investigation. Given Latham's extensive experience and expertise concerning Adelphia's business, even minimal due diligence would have revealed to Latham that Adelphia: (1) had flagrantly

and repeatedly breached the covenants in the indentures for its prior offerings restricting transactions with affiliates; (2) had breached the covenants in the indentures for its private offerings restricting, *inter alia*, indirect acquisitions by the Company of Adelphia indebtedness subordinate to the notes being issued or of Adelphia capital stock; and (3) by early 2000 had incurred total indebtedness exceeding the threshold contained in the indenture covenants limiting the amount of indebtedness Adelphia could incur.

269. By making or consenting to the representation in the "Legal Matters" section of the prospectuses and registration statements that it would be passing on the validity of the notes, Latham misrepresented the validity of the notes issued in the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering. Adelphia issued the September 2000 notes, the January 2001 notes, the June 2001 notes and the October 2001 notes in direct violation of the restrictive covenants contained in the indenture agreements for Adelphia's prior senior note issues. In addition, on information and belief, contrary to the representations of Latham, all six offerings from which Huff purchased Adelphia debt securities were issued in derogation of indenture covenants against affiliate transactions and restricted payments to Adelphia subsidiaries.

E. The Box Manufacturers.

270. As a further device to inflate the Company's reported revenue and EBITDA, Adelphia entered into kickback arrangements with defendants Scientific-Atlanta and Motorola. During 2000-2001, Adelphia

agreed to pay the Box Manufacturer Defendants an additional $91 million for digital set-top boxes used by its cable customers above and beyond the amounts it had previously agreed to pay for such sets. In exchange, the Box Manufacturer Defendants agreed to kick back all those additional monies to Adelphia in the form of "marketing support payments."

271. Adelphia booked the payments to the Box Manufacturer Defendants as capital expenditures (which were then depreciated over the life of the equipment, and thus not included in Adelphia's reported EBITDA), while it booked the "marketing support payments" received from the Boax Manufacturer Defendants as "contra expense," thereby inflating the Company's reported revenues and EBITDA. But for this inflation, Adelphia's reported EBITDA would have been lower than market expectations, and its rate of EBITDA growth would have been materially lower.

272. There was no legitimate business purpose served for these sham arrangements other than to enable Adelphia to inflate its EBITDA.

IV. The June 1999 Offering

A. Background

273. The June 1999 Offering was an exchange offer undertaken to satisfy Adelphia's contractual obligations under a Registration Rights Agreement it had entered into with purchasers of unregistered 7 ½% Senior Notes and 7 ¾% Senior Notes issued in January 1999 issued pursuant to SEC Rule 144A.

274. Under the terms of the June 1999 Offering, Adelphia offered to take back the notes issued in January and issue in exchange new, fully-registered 7 ½% Senior Notes and 7 ¾% Senior Notes. Purchasers of the notes issued in January were entitled to obtain the new notes upon tendering the old ones to Adelphia in accordance with the terms of the offer. This process is commonly known as an "exchange offer."

275. The June 1999 Offering was made pursuant to a Form S-4 Registration Statement, Registration No. 333-75995, filed with the SEC on April 9, 1999 (the "April 1999 Registration Statement"), a Form S-4/A filed on May 11, 1999 amending the Registration Statement, and a prospectus dated May 14, 1999 (the "Exchange Offer Prospectus") filed as part of the amended April 1999 Registration Statement. The Exchange Offer Prospectus was substantially identical to the placement memorandum Adelphia and the underwriters used to sell the 144A notes.

276. John Rigas, Michael Rigas, Timothy Rigas, and James Rigas each signed the Form S-4 and S-4/A pursuant to which the June 1999 Offering was made.

277. Deloitte consented to being named in the Exchange Offer Prospectus and the Registration Statement, as amended, as having audited and certified the financial statements for Adelphia incorporated into the prospectus by reference from Adelphia's Form 10-K for the fiscal year ended March 31, 1998.

278. Buchanan consented to being named as an expert in the June 1999 Offering as having provided an

expert legal opinion as to the validity of the notes issued in the June 1999 Offering.

279. As detailed below, the Exchange Offer Prospectus incorporated in the April 1999 Registration Statement, contained numerous materially misleading statements and omitted information material to investors.

280. Huff participated in the June 1999 Offering by tendering to Adelphia the 7 ½% Senior Notes and 7 ¾% Senior Notes it had purchased in and after January 1999 and obtaining new notes in exchange. In addition, subsequent to the June 1999 Offering, Huff made additional purchases on the secondary market of 7 ½% Senior Notes and 7 ¾% Senior Notes that Adelphia issued as part of the June 1999 Offering. In making these purchases, Huff relied on the misleading statements and omissions contained in the April 1999 Registration Statement and the Exchange Offer Prospectus.

B. Materially Misleading Statements

281. The Exchange Offer Prospectus incorporated by reference Adelphia's Form 10-K for the fiscal year ended March 31, 1998 (the "March 1998 10-K"). Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the March 1998 10-K contains a host of distortions, misrepresentations and outright fabrications.

282. Beginning on page F-1, the March 1998 10-K presents Adelphia's consolidated balance sheets and

financial statements for the fiscal years ended March 31, 1997 and March 31, 1998.

283. The consolidated financial statements for Adelphia contained in the March 1998 10-K stated that the total consolidated debt for Adelphia and its subsidiaries was $2,544,039,000 for the fiscal year ended March 31, 1997, and $2,909,745,000 for the fiscal year ended March 31, 1998. Immediately prior to the presentation of this information in the March 1998 10-K is the Independent Auditors' Report of Deloitte. In the Auditors' Report, Deloitte makes the following representations:

• that Deloitte functioned as an "independent" auditor;

• that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of March 31, 1997 and 1998, and the related consolidated statements of operations, of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for each of the three years in the period ended March 31, 1998;"

• that Deloitte "conducted [its] audits in accordance with generally accepted auditing standards;"

• that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

• that, in Deloitte's opinion, Adelphia's consolidated financial statements "present fairly, in all

material respects, the financial position of Adelphia Communications Corporation and its subsidiaries at March 31, 1997 and 1998, and the results of their operations and their cash flows for each of the three years in the period ended March 31, 1998 in conformity with generally accepted accounting principles;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the March 1998 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein."

284. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidated financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, the consolidated financial statements contained in the March 1998 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

• Total parent and subsidiary debt was represented to be $2,544,039,000 for the fiscal year ended March 31, 1997, and $2,909,745,000 for the fiscal year ended March 31, 1998. In fact, these figures understated Adelphia's total consolidated debt by several hundred million dollars for each of these periods.

• Total convertible preferred stock, common stock and other stockholders' equity were represented to be deficient by $1,253,881,000 for the fiscal year ended March 31, 1997 and $1,315,865,000 for the fiscal year ended March 31, 1998. In fact, these figures overstated Adelphia's stockholder equity by several million dollars by failing to account for the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenue was overstated due to management fee income due from the Managed Entities that was never paid or intended to be paid, and due to Adelphia's inflation of their subscribers.

• Capital expenditures were grossly overstated.

• EBITDA was overstated through improper accounting practices.

• Interest expense - net was represented to be $232,325,000 for the fiscal year ended March 31, 1997, and $247,107,000 for the fiscal year ended March 31, 1998. In fact, these figures understated interest expense by several millions dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total selling, general and administrative expenses ("SG&A") were represented to be $81,763,000 for the fiscal year ended March 31, 1997, and $95,731,000 for the fiscal year ended March 31, 1998. In fact, these figures were understated by several million dollars by failing to account for

amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A expenses and interest expenses had the further effect of understating the amount of Adelphia's net losses for the same periods, which had been represented to be $130,642,000 for the fiscal year ended March 31, 1997, and $173,879,000 for the fiscal year ended March 31, 1998, but which were substantially higher in reality.

• Portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $329,776,000 for the fiscal year ended March 31, 1997, and $712,606,000 for the fiscal year ended March 31, 1998. These figures were overstated by several million dollars because of the failure to account for the Managed Entities' co-borrowing activities, which resulted in understatement of Adelphia's repayments of debt on which the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

285. Although Adelphia acknowledged the existence of the co-borrowing arrangements in the March 1998 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt. Specifically, with respect to the co-borrowing arrangements, Adelphia stated, in a footnote:

> A subsidiary of Adelphia is a co-borrower with a managed partnership under a $200,000[,000] credit agreement. Each of the co-borrowers is liable for all borrowings under this credit agreement, although the lenders have no recourse against Adelphia other than against Adelphia's interest in such subsidiary.

286. This is the entire disclosure related to the co-borrowing facilities. The statement's rank inadequacy is apparent simply by contrasting it to the disclosures about the co-borrowing arrangements in Adelphia's May 2002 8-K.

287. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiary, but which were also available for the use for legitimate business purposes of the Managed Entity. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangement was strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entity under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had drawn down a substantial portion of the credit facility.

288. The statement regarding the co-borrowing arrangement was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facility had been drawn down, which left the misleading impression that no amounts had been drawn down;

(2) which entity drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiary was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the March 1998 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entity that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entity actually lacked the ability to repay, then Huff would have known that a high likelihood existed that Adelphia's subsidiary would have to repay the loan.

289. The March 1998 10-K contained the following additional material misrepresentations and omissions:

• Under Item 2, the March 1998 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral

in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that, the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

- Under Item 7, the March 1998 10-K described Adelphia's "financing strategy." This Item repeated the false figure of $2,909,745,000 for Adelphia's total outstanding debt for the fiscal year ended March 31, 1998. In addition, there is no disclosure that part of Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for their personal use.

- The March 1998 10-K set forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at March 31, 1998" as follows: (a) $128,213,000 during the year ended March 31, 1999; (b) $50,268,000 during the year ended March 31, 2000; (c) $169,288,000 during the year ended March 31, 2001; (d) $157,740,000 during the year ended March 31, 2002; and (e) $573,091,000 during the year ended March 31,

2003. These amounts were overstated, given that the "amounts outstanding at March 31, 1998" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

290. On page 3, the Exchange Offer Prospectus discussed a direct placement of Adelphia common stock with the Rigases in April 1999 for between $250 million and $375 million. These statements were materially false and misleading in that they failed to disclose that the Rigases were using proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the Exchange Offer Prospectus misled Huff into believing that the Rigases were injecting new equity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities that was senior to the notes purchased by Huff. Furthermore, by not disclosing these borrowings, the Exchange Offer Prospectus concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans, or that the Managed Entities would be unable to pay. Nor does the Exchange Offer Prospectus disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required

to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

291. On page 21, the Exchange Offer Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This statement was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the Exchange Offer Prospectus disclose the degree to which the Rigases were exercising that day-to-day control to self-deal.

292. On the same page, the Exchange Offer Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the Exchange Offer Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the Exchange Offer Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts, when they do arise, will be brought to the attention of Adelphia's Board of Directors and evaluated for their fairness to Adelphia, the Exchange Offer Prospectus

did not disclose that, in fact, the conflicts of interest that had already arisen were not brought to the Board's attention and were not the subject of fairness opinions. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose: (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the Exchange Offer Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

V. The November 1999 Offering

A. Background

293. The November 1999 Offering was made pursuant to a prospectus, dated May 14, 1999 (the "May 1999 Prospectus"), which Adelphia filed with the SEC as part of a Form S-3 Registration Statement, Registration No. 333-78027, on May 7, 1999 (the "May 1999 Registration Statement"), as well as a supplemental prospectus, dated November 10, 1999 (the "November 1999 Prospectus"), which Adelphia filed with the SEC on November 12, 1999 pursuant to Rule 424(b)(5). Both the May 1999 Prospectus and the

November 1999 Prospectus are incorporated as part of the May 1999 Registration Statement.

294. Credit Suisse, CSFB, Salomon, Citibank, Citicorp, Citigroup, BNY, BONY, Chase Securities, Chase Bank, BMO, Bank of Montreal, PNC, Scotia Capital, BNS, TD Securities and TDI acted as underwriters in connection with the November 1999 Offering (collectively, the "November 1999 Offering Underwriters").

295. John Rigas, Michael Rigas, Timothy Rigas, and James Rigas each signed the May 1999 Registration Statement on behalf of Adelphia.

296. Deloitte consented to being named as an expert in the May 1999 Prospectus, the November 1999 Prospectus and the May 1999 Registration Statement as having audited and certified the consolidated financial statements for Adelphia as of March 31, 1998, December 31, 1998, and for the fiscal years ended March 31, 1997 and 1998 and the nine months ended December 31, 1998 incorporated by reference into the May 1999 Prospectus, the November 1999 Prospectus and the May 1999 Registration Statement.

297. Buchanan consented to being named as an expert in the November 1999 Prospectus and the May 1999 Registration Statement as having provided an expert legal opinion as to the validity of the notes issued in the November 1999 Offering.

298. Latham consented to being named as an expert in the November 1999 Prospectus and the May 1999 Registration Statement as having provided an

expert legal opinion as to the validity of the notes issued in the November 1999 Offering.

299. As detailed below, the May 1999 Prospectus and November 1999 Prospectus, both of which were incorporated in the May 1999 Registration Statement, contained numerous materially misleading statements and omitted information material to investors in the securities issued by Adelphia in the November 1999 Offering.

300. Huff participated in the November 1999 Offering by purchasing 9 3/8% Senior Notes from the November 1999 Offering Underwriters. In addition, subsequent to the November 1999 Offering, Huff made additional purchases on the secondary market of 9 3/8% Senior Notes that Adelphia issued as part of the November 1999 Offering. In making these purchases, Huff relied on the misleading statements and omissions contained in the May 1999 Prospectus, November 1999 Prospectus and May 1999 Registration Statement.

B. Materially Misleading Statements

301. The November 1999 Prospectus incorporated by reference Adelphia's Form 10-K for the transition period ended December 31, 1998 (the "1998 10-K"). Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the 1998 10-K contains a host of distortions, misrepresentations and outright fabrications.

302. Beginning on page F-1, the 1998 10-K presented Adelphia's consolidated balance sheets and

financial statements for the years ended March 31, 1998 and December 31, 1998.

303. Immediately prior to the presentation of this information in the 1998 10-K, was the Independent Auditors' Report of Deloitte. In the Auditors' Report, Deloitte made the following representations:

- that Deloitte functioned as an "independent" auditor;

- that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of March 31, 1998 and December 31, 1998, and the related consolidated statements of operations, of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for the years ended March 31, 1997 and 1998 and the nine months ended December 31, 1998;"

- that Deloitte "conducted [its] audits in accordance with generally accepted auditing standards;"

- that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

- that, in Deloitte's opinion, Adelphia's "consolidated financial statements "present fairly, in all material respects, the financial position of Adelphia Communications Corporation and its subsidiaries at March 31, 1998 and December 31, 1998, and the results of their operations and their cash flows for the years ended March 31, 1997 and 1998 and the nine

months ended December 31, 1998 in conformity with generally accepted accounting principles;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the 1998 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein."

304. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidated balance sheets and financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, which began as early as 1996, the consolidated financial statements contained in the 1998 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

• Total parent and subsidiary debt was represented to be \$2,909,745,000 for the fiscal year ended March 31, 1998, and \$3,527,452,000 for the year ended December 31, 1998. In fact, these figures understated Adelphia's total consolidated debt by several hundred million dollars for each of these periods.

• Total convertible preferred stock, common stock and other stockholders' equity were represented to be a deficiency of \$1,315,865,000 for the fiscal year ended

March 31, 1998, and $1,021,746,000 for the year ended December 31, 1998. In fact, these figures overstated Adelphia's stockholder equity by several million dollars by failing to account for the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenues were overstated due to management fees due from the Managed Entities that were neither paid nor intended to be paid, and due to the overstatement of Adelphia's subscribers.

• Capital expenditures were overstated.

• EBITDA was overstated through improper accounting practices.

• Interest expense - net was represented to be $247,107,000 for the fiscal year ended March 31, 1998 and $191,593,000 for the nine months ended December 31, 1998. In fact, these figures understate interest expense by several millions dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total SG&A expenses are represented to be $95,731,000 for the year ended March 31, 1998, and $107,249,000 for the nine months ended December 31, 1998. In fact, these figures were understated by several million dollars by failing to account for amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A and interest expenses had the further effect of understating the

amount of Adelphia's net losses for the same periods, which had been represented to be $173,879,000 for the year ended March 31, 1998, and $115,130,000 for the nine months ended December 31, 1998, but which were substantially higher in reality.

• The portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $712,606,000 for the year ended March 31, 1998, and $999,079,000 for the nine months ended December 31, 1998. These figures were overstated by several million dollars because of the failure to account for the Managed Entities' co-borrowing activities, which resulted in understatement of Adelphia's repayments of debt on which the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

305. Although Adelphia acknowledged the existence of the co-borrowing arrangements in the 1998 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt. Specifically, with respect to the co-borrowing arrangements, Adelphia stated in a footnote:

> A subsidiary of Adelphia is a co-borrower with a managed partnership under a $200,000[,000] credit agreement. Each of the co-borrowers is liable for all borrowings under this credit agreement, although the lenders have no

recourse against Adelphia other than against Adelphia's interest in such subsidiary.

293. This is the entire disclosure related to the co-borrowing facilities. This statement's rank inadequacy is apparent simply by contrasting it to the disclosures concerning the co-borrowing arrangements in Adelphia's May 2002 8-K.

306. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiary, but which were also available for the use for legitimate business purposes of the Managed Entity. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangement was strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entity under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had drawn down a substantial portion of the credit facility.

307. The statement regarding the co-borrowing arrangement was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facility had been drawn down,

which left the misleading impression that no amounts had been drawn down;

(2) which entity drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiary was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the 1998 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entity that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entity actually lacked the ability to repay, then Huff would have known that a high likelihood existed that Adelphia's subsidiary would have to repay the loan.

308. The 1998 10-K contained the following additional material misrepresentations and omissions:

• Under Item 2, the 1998 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and

the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

- Under Item 7, the 1998 10-K described Adelphia's "financing strategy." This Item repeated the false figure of $3,527,452,000 for Adelphia's total outstanding debt for the year ended December 31, 1998. In addition, there was no disclosure that part of Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for the Rigas Family's personal use.

- The 1998 10-K set forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at December 31, 1998" as follows: (a) $101,402,000 during the year ended December 31, 1999; (b) $236,795,000 during the year ended December 31, 2000; (c) $190,403,000 during the year ended December 31, 2001; (d) $540,318,000 during the year ended December 31, 2002; and (e) $693,663,000 during the year ended December 31, 2003. These amounts were understated, given that the "amounts outstanding at December 31, 1998" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

309. The November 1999 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended June 30, 1999 (filed with the SEC on or about August 16, 1999) (the "June 1999 10-Q"). The June 1999 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total consolidated debt of $3,794,539,000.

310. The June 1999 10-Q also stated:

> The accompanying unaudited condensed consolidated financial statements of Adelphia Communications Corporation and its majority owned subsidiaries . . . have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission.
>
> In the opinion of management, all adjustments, consisting only of normal recurring accruals necessary for a fair presentation of the financial position of Adelphia at June 30, 1999, and the results of operations for the three and six months ended June 30, 1998 and 1999, have been included.

311. Adelphia's publicly-reported results for the second quarter of 1999 as reported in the June 1999 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $250 million through the deliberate omission of co-borrowing debt. As a result, the representation in the June 1999 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

312. On pages S-3 and S-5, the November 1999 Prospectus discussed two direct placements of Adelphia common stock with the Rigases in April and October 1999. These statements were materially false and misleading in that they failed to disclose that the Rigases were using proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the November 1999 Prospectus misled investors into believing that the Rigases were injecting new equity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities that was senior to the notes purchased by Huff. Furthermore, by not disclosing these borrowings, the November 1999 Prospectus concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans, or that the Managed Entities were unable to repay, leaving only Adelphia. Nor does the November 1999 Prospectus disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

313. On pages S-7 to S-8, the November 1999 Prospectus represented that, as of June 30, 1999, the "Notes would have been effectively subordinated to

approximately $6.0 billion of indebtedness and redeemable preferred stock of Adelphia's subsidiaries; and our total indebtedness excluding redeemable preferred stock would have been approximately $8.6 billion." These statements were materially false and misleading because, by not taking the amount of borrowings by the Rigases and the Managed Entities under the co-borrowing arrangements into account, the November 1999 Prospectus understated the amounts of indebtedness ostensibly senior to the notes and Adelphia's total indebtedness. This materially misleading representation was repeated on page S-10 of the November 1999 Prospectus.

314. On page S-10, in its discussion of "Risk Factors," the November 1999 Prospectus disclosed that Adelphia had total indebtedness of $3.8 billion as of June 30, 1999. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

315. On page S-12, the November 1999 Prospectus represented that Adelphia's total convertible preferred stock, common stock and other stockholders' equity at June 30, 1999 was approximately $267.7 million. This statement was materially false and misleading in that it overstated stockholders' equity by failing to account for the fact that the Rigases purchased Adelphia equity securities using proceeds from the co-borrowing arrangements which the Company was liable to repay. Rather than inject new equity into Adelphia, the securities purchased by the Rigases in reality created

bank debt that was senior to the notes purchased by Huff.

316. On page S-18, the November 1999 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the November 1999 Prospectus disclose the degree to which the Rigases were exercising that day-to-day control to self-deal.

317. On page S-18, the November 1999 Prospectus disclosed that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their

fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the November 1999 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose: (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the November 1999 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

318. On page S-23, the November 1999 Prospectus represented that Adelphia's total debt as of June 30, 1999 was $3,794,539,000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

319. On page 4, in its discussion of "Risk Factors," the May 1999 Prospectus stated that Adelphia had total indebtedness of approximately $3.5 billion as of

March 31, 1999. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

320. On pages 10-11, the May 1999 Prospectus disclosed the fact that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the May 1999 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

321. On page 11, the May 1999 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the May 1999 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in that they failed to disclose that (1) severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources; (2) the Rigases had borrowed various amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were

liable; (3) the Rigases had used the proceeds of those borrowings for their own personal benefit; (4) the Rigases received numerous cash "advances" from Adelphia which they used for their own personal benefit; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing.

VI. The September 2000 Offering

A. Background

322. The September 2000 Offering was made pursuant to the May 1999 Prospectus, the May 1999 Registration Statement, as well as a supplemental prospectus, dated September 15, 2000 (the "September 2000 Prospectus"), which Adelphia filed with the SEC on September 18, 2000 pursuant to Rule 424(b)(5). Both the May 1999 Prospectus and the September 2000 Prospectus are incorporated as part of the May 1999 Registration Statement.

323. Salomon, Citibank, Citigroup, Citicorp, Banc of America, BOA, Chase Securities, Chase Bank, Morgan Stanley, Scotia Capital, BNS, TD Securities, TDI, ABN AMRO, ABN AMRO Bank, Barclay's, BB, Credit Lyonnais, CL, Fleet, PNC, Cowen, Societe Generale, SunTrust and SunTrust Bank acted as underwriters in connection with the September 2000 Offering (collectively, the "September 2000 Offering Underwriters"). Salomon and Banc of America were the lead underwriters for this offering. Because Adelphia intended to use the net proceeds from the September 2000 Offering to repay indebtedness owed to affiliates of certain September 2000 Offering Underwriters, Salomon agreed to act as the qualified independent underwriter for pricing the offering and

conducting due diligence in accordance with Rule 2710(c)(8) of the Conduct Rules of the National Association of Securities Dealers, Inc.

324. John Rigas, Michael Rigas, Timothy Rigas, and James Rigas each signed the May 1999 Registrations Statement on behalf of Adelphia.

325. Deloitte consented to being named as an expert in the September 2000 Prospectus as having audited and certified the consolidated financial statements for Adelphia as of December 31, 1998 and 1999, and for the fiscal year ended March 31, 1998, the nine months ended December 31, 1998 and the year ended December 31, 1999 incorporated by reference into the September 2000 Prospectus from Adelphia's Form 10-K for the year ended December 31, 1999.

326. Buchanan consented to being named as an expert in the September 2000 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the September 2000 Offering.

327. Latham consented to being named as an expert in the September 2000 Prospectus as having provided a an expert legal opinion as to the validity of the notes issued in the September 2000 Offering.

328. As detailed below, the May 1999 Prospectus and September 2000 Prospectus, both of which were incorporated in the May 1999 Registration Statement, contained numerous materially misleading statements and omitted information material to investors in the securities issued by Adelphia in the September 2000 Offering.

329. Huff participated in the September 2000 Offering by purchasing 10 7/8% Senior Notes from the September 2000 Offering Underwriters. In addition, subsequent to the September 2000 Offering, Huff made additional purchases on the secondary market of 10 7/8% Senior Notes that Adelphia issued as part of the September 2000 Offering. In making these purchases, Huff actually relied on the misleading statements and omissions contained in the May 1999 Prospectus, September 2000 Prospectus and May 1999 Registration Statement, as well as subsequent public filings by the Company.

B. Materially Misleading Statements

330. The September 2000 Prospectus incorporated by reference Adelphia's Form 10-K for the year ended December 31, 1999 (the "1999 10-K"). Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the 1999 10-K contains a host of distortions, misrepresentations and outright fabrications.

331. Beginning on page F-1, the 1999 10-K presents Adelphia's consolidated balance sheets and financial statements for the years ended December 31, 1998 and December 31, 1999.

332. The consolidated financial statements for Adelphia contained in the 1999 10-K stated that the total consolidated debt for Adelphia and its subsidiaries was $3,527,452,000 for the year ended December 31, 1998, and $9,291,732,000 for the year ended December 31, 1999. Immediately prior to the presentation of this information in the 1999 10-K was

the Independent Auditors' Report of Deloitte. In the Auditors' Report, Deloitte made the following representations:

• that Deloitte functioned as an "independent" auditor;

• that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of December 31, 1998 and 1999, and the related consolidated statements of operations, of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for the year ended March 31, 1998, the nine months ended December 31, 1998 and the year ended December 31, 1999;"

• that Deloitte "conducted [its] audits in accordance with generally accepted auditing standards;"

• that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

• that, in Deloitte's opinion, Adelphia's "consolidated financial statements present fairly, in all material respects, the financial position of Adelphia Communications Corporation and subsidiaries at December 31, 1998 and 1999, and the results of their operations and their cash flows for the year ended March 31, 1998, the nine months ended December 31, 1998 and the year ended December 31, 1999 in conformity with generally accepted accounting principles;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the 1999 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein."

333. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidate balance sheets and financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, the consolidated financial statements contained in the 1999 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

• Total parent and subsidiary debt was represented to be $3,527,452,000 for the year ended December 31, 1998, and $9,291,732,000 for the year ended December 31, 1999. In fact, these figures understated Adelphia's total consolidated debt by at least $700 million for the period ending December 31, 1999.

• Total convertible preferred stock, common stock and other stockholders' equity were represented to be a deficiency of $1,021,746,000 for the year ended December 31, 1998, and a positive of $3,721,187,000 for the year ended December 31, 1999. In fact, these figures overstated Adelphia's stockholder equity by hundreds of millions of dollars by failing to account for

the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenue was overstated due to management fees due from the Managed Entities that were neither paid nor intended to be paid, and due to the inflation of Adelphia's subscribers.

• Capital expenditures were overstated.

• Interest expense - net was represented to be $180,452,000 for the nine months ended December 31, 1998, and $359,585,000 for the year ended December 31, 1999. In fact, these figures understated interest expense by hundreds of millions of dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total SG&A expenses were represented to be $107,249,000 for the nine months ended December 31, 1998, and $340,579,000 for the year ended December 31, 1999. In fact, these figures were understated by hundreds of millions of dollars by failing to account for amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A expenses and interest expenses had the further effect of understating the amount of Adelphia's net losses for the same periods, which had been represented to be $115,130,000 for the nine months ended December 31, 1998, and $240,530,000 for the year ended December

31, 1999, but which were substantially higher in reality.

• Portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $999,079,000 for the nine months ended December 31, 1998, and $2,978,313,000 for the year ended December 31, 1999. These figures were overstated by several hundred million dollars because of the failure to account for the Managed Entities' co-borrowing activities and purchases of Adelphia debt securities using co-borrowed funds, which resulted in overstatement of Adelphia's proceeds from debt and understatement of Adelphia's repayments of debt on which figures the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

334. Although Adelphia acknowledged the existence of the co-borrowing arrangements in the 1999 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt. Specifically, with respect to the co-borrowing facilities, Adelphia stated in a footnote:

> Certain subsidiaries of Adelphia are co-borrowers with Managed Entities under credit facilities for borrowings of up to $3,751,250[,000]. Each of the co-borrowers is liable for all borrowings under the credit agreements, and may borrow up to the entire amount of the available credit under the facility.

The lenders have no recourse against Adelphia other than against Adelphia's interest in such subsidiaries.

335. This is the entire disclosure related to the co-borrowing facilities. The statement's rank inadequacy is apparent simply by contrasting it to the disclosures concerning the co-borrowing facilities contained in Adelphia's May 2002 8-K.

336. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiaries, but which were also available for the use for legitimate business purposes of the Managed Entities, all of which were managed by Adelphia for a fee. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangements were strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entities under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had borrowed at least $700 million as of December 31, 1999.

337. The statement concerning the co-borrowing arrangements was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facilities had been drawn down, which left the misleading impression that no amounts had been drawn down;

(2) which entities drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiaries was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the 1999 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entities that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entities actually lacked the ability to repay, then Huff would have known that a high likelihood existed that Adelphia and its subsidiaries would have to pay those loans.

338. The 1999 10-K contained the following additional material misrepresentations and omissions:

• Under Item 1, the 1999 10-K stated that Adelphia "provides management and consulting services" to the Managed Entities, without disclosing that those Managed Entities, in the course of their operations, have borrowed money under the co-borrowing arrangements to finance the purchase of

Adelphia securities by the Rigases and other Rigas entities.

• Also under Item 1, the 1999 10-K stated that Adelphia's "operations consist of providing telecommunications services primarily over networks," without disclosing that Adelphia's operations also included advancing and lending money to the Rigas Family and entities controlled by the Rigas Family for a wide variety of other businesses and investments, including golf course development, real estate, provision of venture capital, professional hockey and filmmaking.

• Item 1 of the 1999 10-K incorporates by reference the financial information contained in the audited financial statements discussed above, which, for the reasons stated above are materially incomplete and misleading.

• Under Item 2, the 1999 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff

looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

• Under Item 7, the 1999 10-K discussed Adelphia's need for liquidity and continual financing to conduct, maintain, upgrade and acquire its cable systems, noting that Adelphia's "ability to generate cash to meet its future needs will depend generally on its results of operations and the continued availability of external financing." This disclosure failed to mention that Adelphia lacked the ability to obtain such external financing because it was contractually prohibited from taking on additional indebtedness by covenants in the indenture agreements for its previous bond issues and the restrictions in its credit agreements.

• Also under Item 7, the 1999 10-K described Adelphia's "financing strategy." This disclosure repeated the false figure of $9,291,732,000 for Adelphia's total outstanding debt for the year ended December 31, 1999. In addition, there was no disclosure that part of Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for the Rigas Family's personal use. As for the financing transactions, there was no disclosure of Adelphia's breach of its indentures' restrictions on indebtedness or that purchases of Adelphia securities by the Rigas Family were financed with proceeds from the co-borrowing facilities.

• The 1999 10-K set forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at December 31,

1999" as follows: (a) $390,746,000 during the year ended December 31, 2000; (b) $285,401,000 during the year ended December 31, 2001; (c) $886,571,000 during the year ended December 31, 2002; (d) $1,341,190,000 during the year ended December 31, 2003; and (e) $919,147,000 during the year ended December 31, 2004. These amounts were dramatically understated, given that the "amounts outstanding at December 31, 1999" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

339. The September 2000 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended March 31, 2000 (filed with the SEC on or about May 15, 2000) (the "March 2000 10-Q"). The March 2000 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total unconsolidated debt of $8,531,911,000 and total consolidated debt of $9,384,508,000, including subsidiary debt of $6,606,251,000 and parent debt of $2,778,257,000.

340. The March 2000 10-Q also stated:

> The accompanying unaudited condensed consolidated financial statements of Adelphia Communications Corporation and its majority owned subsidiaries . . . have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission.
>
> In the opinion of management, all adjustments, consisting only of normal recurring accruals necessary for a fair presentation of the financial position of Adelphia at March 31, 2000, and the results of operations for the three and six

months ended March 31, 1999 and 2000, have been included.

341. The March 2000 10-Q also falsely represented that Adelphia had a total of 5,003,517 basic cable subscribers.

342. Adelphia's publicly-reported results for the first quarter of 2000 as reported in the March 2000 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $618 million through the deliberate omission of co-borrowing debt. The March 2000 10-Q also overstated Adelphia's subscribers by tens of thousands. As a result, the representation in the March 2000 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

343. The September 2000 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended June 30, 2000 (filed with the SEC on or about August 14, 2000) (the "June 2000 10-Q"). The June 2000 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total unconsolidated debt of $9,011,675,000 and total consolidated debt of $9,978,775,000, including subsidiary debt of $7,200,203,000 and parent debt of $2,778,572,000.

344. The June 2000 10-Q also stated:

The accompanying unaudited condensed consolidated financial statements of Adelphia

Communications Corporation and its majority owned subsidiaries . . . have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission.

In the opinion of management, all adjustments, consisting only of normal recurring accruals necessary for a fair presentation of the financial position of Adelphia at June 30, 2000, and the results of operations for the three and six months ended June 30, 1999 and 2000, have been included.

345. The June 2000 10-Q also falsely represented that Adelphia had a total of 5,018,068 basic cable subscribers.

346. Adelphia's publicly-reported results for the second quarter of 2000 as reported in the June 2000 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $397 million through the deliberate omission of co-borrowing debt. The March 2000 10-Q also overstated Adelphia's subscribers by tens of thousands. As a result, the representation in the March 2000 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

347. The September 2000 Prospectus did not provide any additional disclosures concerning the amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements or the

uses to which the proceeds of those borrowings were put.

348. On page S-3, the September 2000 Prospectus discusses a direct placement of 2,500,000 shares of Adelphia common stock with the Rigases in July 2000 for $145 million. These statements were materially false and misleading in that they failed to disclose that the Rigases had used proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the September 2000 Prospectus misled investors into believing that the Rigases were injecting new equity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities that was senior to the notes purchased by Huff. Furthermore, by not disclosing these borrowings, the September 2000 Prospectus concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans, or that the Managed Entities would be unable to repay. Nor does the September 2000 Prospectus disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

349. On pages S-5 to S-6, the September 2000 Prospectus represented that, as of June 30, 2000, the "Notes would have been effectively subordinated to approximately $9.2 billion of indebtedness and redeemable preferred stock of Adelphia's subsidiaries; and our total indebtedness excluding redeemable preferred stock would have been approximately $12.4 billion." These statements were materially false and misleading because, by not taking the amount of borrowings by the Rigases and the Managed Entities under the co-borrowing arrangements into account, the prospectus understated the amounts of indebtedness senior to the notes and Adelphia's total indebtedness by at least $700 million. This materially misleading representation was repeated on page S-8 of the September 2000 Prospectus.

350. On page S-8, in its discussion of "Risk Factors," the September 2000 Prospectus stated that Adelphia had total indebtedness of $10.0 billion as of June 30, 2000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $700 million.

351. On page S-9, the September 2000 Prospectus represented that Adelphia's total convertible preferred stock, common stock and other stockholders' equity at June 30, 2000 was approximately $3.9 billion. This statement was materially false and misleading in that it overstated stockholders' equity by failing to account for the fact that the Rigases purchased Adelphia equity securities using proceeds from the co-borrowing

arrangements, which the Company was liable to repay. Rather than inject new equity into Adelphia, the securities purchased by the Rigases in reality created bank debt that was senior to the notes purchased by Huff.

352. On page S-15, the September 2000 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the September 2000 Prospectus disclose the degree to which the Rigases were exercising that day-to-day control to self-deal.

353. On pages S-16 to S-17, the September 2000 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the September 2000 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the September 2000 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second,

although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the September 2000 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the September 2000 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

354. On page S-19, the September 2000 Prospectus represented that Adelphia's total debt as of June 30, 2000 was $9,978,775,000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in

an understatement of Adelphia's total indebtedness of at least $700 million.

355. On page 4, in its discussion of "Risk Factors," the May 1999 Prospectus stated that Adelphia had total indebtedness of approximately $3.5 billion as of December 31, 1998. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

356. On pages 10-11, the May 1999 Prospectus disclosed the fact that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the May 1999 Prospectus disclose the degree to which the Rigases were exercising that day-to-day control to self-deal.

357. On page 11, the May 1999 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the May 1999 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following

respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the May 1999 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts, when they do arise, will be brought to the attention of Adelphia's Board of Directors and evaluated for their fairness to Adelphia, the May 1999 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not brought to the Board's attention and were not the subject of fairness opinions. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the May 1999 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

VIII. The January 2001 Offering

A. Background

358. The January 2001 Offering, which was accompanied by an issuance of 17,000,000 shares of Adelphia Class A Common Stock, was made pursuant to the May 1999 Prospectus, the May 1999 Registration Statement, as well as a supplemental prospectus, dated January 17, 2001 (the "January 2001 Prospectus"), which Adelphia filed with the SEC on January 18, 2001 pursuant to Rule 424(b)(5). Both the May 1999 Prospectus and the January 2001 Prospectus are incorporated as part of the May 1999 Registration Statement.

359. Salomon, Citibank, Citigroup, Citicorp, Banc of America and BOA acted as underwriters in connection with the January 2001 Offering (collectively, the "January 2001 Offering Underwriters"). Because Adelphia intended to use more than 10% of the net proceeds from the January 2001 Offering to repay indebtedness owed to Banc of America, Salomon agreed to act as the qualified independent underwriter for pricing the offering and conducting due diligence in accordance with Rule 2710(c)(8) of the Conduct Rules of the National Association of Securities Dealers, Inc.

360. John Rigas, Michael Rigas, Timothy Rigas, and James Rigas each signed the May 1999 Registration Statement on behalf of Adelphia.

361. Deloitte consented to being named as an expert in the January 2001 Prospectus as having audited and certified the consolidated financial

statements for Adelphia as of December 31, 1999 and 2000, and for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000 incorporated by reference into the January 2001 Prospectus from Adelphia's Form 10-K for the year ended December 31, 1999.

362. Buchanan consented to being named as an expert in the January 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the January 2001 Offering.

363. Latham consented to being named as an expert in the January 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the January 2001 Offering.

364. As detailed below, the May 1999 Prospectus and January 2001 Prospectus, both of which were incorporated in the May 1999 Registration Statement, contained numerous materially misleading statements and omitted information material to investors in the securities issued by Adelphia in the January 2001 Offering.

365. Subsequent to the January 2001 Offering, Huff made purchases on the secondary market of 6% Convertible Subordinated Notes that Adelphia issued as part of the January 2001 Offering. In making these purchases, Huff actually relied on the misleading statements and omissions contained in the May 1999 Prospectus, January 2001 Prospectus and May 1999 Registration Statement.

B. Materially Misleading Statements

366. Prior to the January 2001 Offering, Credit Suisse, one of the Underwriter Defendants, issued two research reports, dated January 8, 2001 and January 18, 2001 (the "January 8 Credit Suisse Report" and the "January 18 Credit Suisse Report," respectively), that were disseminated to, and received and reviewed by, members of the investing public, including Huff.

367. Referring to the January 2001 Offering, the January 8 Credit Suisse Report stated that Adelphia "will improve prospects for credit quality improvement through the planned issuance of equity and convertible notes as well as potential cable system sales." Furthermore, Credit Suisse represented that "Adelphia's recent announcement to offer a combined $1.25 billion common stock and convertible subordinated notes (including Rigas Family direct placements) is a further positive step toward improving corporate liquidity and the outlook for credit quality." As a result of this offering and the Rigas Family's investment, Credit Suisse stated that Adelphia's pro forma leverage "would improve to approximately 8.0x pro forma."

368. The January 18 Credit Suisse Report stated that Adelphia's "$1.9 billion offering of upsized common stock and convertible subordinated notes (including $0.4 billion from Rigas family investments) significantly improves liquidity and the company's overall credit profile." Furthermore, Credit Suisse represented that "Adelphia's recent $1.9 billion common stock and convertible subordinated notes offering (including Rigas Family direct placements), upsized from $1.25 billion previously, is a further

positive step towards improving corporate liquidity and the outlook for credit quality, in our opinion."

369. Credit Suisse's statements in the January 8 Credit Suisse Report and the January 18 Credit Suisse Report contradicted what Credit Suisse knew to be the true facts -- that the Rigases' direct investments were to be funded by proceeds from the co-borrowing facilities, and that, consequently, these investments would not improve Adelphia's liquidity. Moreover, by not accounting for amounts borrowed under the co-borrowing facilities, Credit Suisse dramatically understated the extent of Adelphia's debt leverage.

370. The January 2001 Prospectus incorporated by reference Adelphia's Form 10-K for the year ended December 31, 1999 (the "1999 10-K"). Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the 1999 10-K contained a host of distortions, misrepresentations and outright fabrications.

371. Beginning on page F-1, the 1999 10-K presented Adelphia's consolidated balance sheets and financial statements for the years ended December 31, 1998 and December 31, 1999.

372. The consolidated financial statements for Adelphia contained in the 1999 10-K stated that the total consolidated debt for Adelphia and its subsidiaries was $3,527,452,000 for the year ended December 31, 1998, and $9,291,732,000 for the year ended December 31, 1999. Immediately prior to the presentation of this information in the 1999 10-K was the Independent Auditors' Report of Deloitte. In the

Auditors' Report, Deloitte made the following representations:

• that Deloitte functioned as an "independent" auditor;

• that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of December 31, 1998 and 1999, and the related consolidated statements of operations, of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for the year ended March 31, 1998, the nine months ended December 31, 1998 and the year ended December 31, 1999;"

• that Deloitte "conducted [its] audits in accordance with generally accepted auditing standards;"

• that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

• that, in Deloitte's opinion, Adelphia's "consolidated financial statements "present fairly, in all material respects, the financial position of Adelphia Communications Corporation and its subsidiaries at December 31, 1998 and 1999, and the results of their operations and their cash flows for the year ended March 31, 1998, the nine months ended December 31, 1998 and the year ended December 31, 1999 in conformity with generally accepted accounting principles;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the 1999 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein."

373. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidated balance sheets and financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, the consolidated financial statements contained in the 1999 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

• Total parent and subsidiary debt was represented to be $3,527,452,000 for the year ended December 31, 1998, and $9,291,732,000 for the year ended December 31, 1999. In fact, these figures understated Adelphia's total consolidated debt by at least $700 million for the period ending December 31, 1999.

• Total convertible preferred stock, common stock and other stockholders' equity were represented to be a deficiency of $1,021,746,000 for the year ended December 31, 1998, and a positive $3,721,187,000 for the year ended December 31, 1999. In fact, these figures overstated Adelphia's stockholder equity by hundreds of millions of dollars by failing to account for

the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenue was overstated due to management fees due from the Managed Entities that were neither paid nor intended to be paid, and due to the inflation of Adelphia's subscribers.

• Capital expenditures were grossly overstated.

• EBITDA was overstated through improper accounting practices.

• Interest expense - net was represented to be $180,452,000 for the nine months ended December 31, 1998, and $359,585,000 for the year ended December 31, 1999. In fact, these figures understated interest expense by hundreds of millions of dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total SG&A expenses are represented to be $107,249,000 for the nine months ended December 31, 1998, and $340,579,000 for the year ended December 31, 1999. In fact, these figures were understated by hundreds of millions of dollars by failing to account for amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A expenses and interest expenses had the further effect of understating the amount of Adelphia's net losses for the same periods, which had been represented to be

$115,130,000 for the nine months ended December 31, 1998, and $240,530,000 for the year ended December 31, 1999, but which were substantially higher in reality.

• Portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $999,079,000 for the nine months ended December 31, 1998, and $2,978,313,000 for the year ended December 31, 1999. These figures were overstated by several hundred million dollars because of the failure to account for the Managed Entities' co-borrowing activities and purchases of Adelphia debt securities using co-borrowed funds, which resulted in overstatement of Adelphia's proceeds from debt and understatement of Adelphia's repayments of debt on which figures the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

374. Although Adelphia acknowledged the existence of co-borrowing arrangements in the 1999 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt. Specifically, with respect to the co-borrowing facilities, Adelphia stated in a footnote:

> Certain subsidiaries of Adelphia are co-borrowers with Managed Entities under credit facilities for borrowings of up to $1,025,000[,000]. Each of the co-borrowers is liable for all borrowings under the credit

agreements, although the lenders have no recourse against Adelphia other than against Adelphia's interest in such subsidiaries.

375. This is the entire disclosure related to the co-borrowing facilities. The statement's rank inadequacy is apparent simply by contrasting it to the disclosures concerning the co-borrowing facilities contained in Adelphia's May 2002 8-K.

376. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiaries, but which were also available for use for legitimate business purposes of the Managed Entities, all of which were managed by Adelphia for a fee. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangements were strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entities under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had borrowed at least $700 million as of December 31, 1999.

377. The statement concerning the co-borrowing arrangements was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facilities had been drawn down, which left the misleading impression that no amounts had been drawn down;

(2) which entities drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiaries was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the 1999 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entities that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entities actually lacked the ability to repay, then Huff would have known that a high likelihood existed that Adelphia and its subsidiaries would have to pay those loans.

378. The 1999 10-K contained the following additional material misrepresentations and omissions:

• Under Item 1, the 1999 10-K stated that Adelphia "provides management and consulting services" to the Managed Entities, without disclosing that those Managed Entities, in the course of their operations, have borrowed money under the co-borrowing arrangements to finance the purchase of

Adelphia securities by the Rigases and other Rigas entities.

• Also under Item 1, the 1999 10-K stated that Adelphia's "operations consist of providing telecommunications services primarily over networks," without disclosing that Adelphia's operations also included advancing and lending money to the Rigas Family and entities controlled by the Rigas Family for a wide variety of other businesses and investments, including golf course development, real estate, provision of venture capital, professional hockey and filmmaking.

• Item 1 of the 1999 10-K incorporated by reference the financial information contained in the audited financial statements discussed above, which, for the reasons stated above were materially incomplete and misleading.

• Under Item 2, the 1999 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff

looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

• Under Item 7, the 1999 10-K discussed Adelphia's need for liquidity and continual financing to conduct, maintain, upgrade and acquire its cable systems, noting that Adelphia's "ability to generate cash to meet its future needs will depend generally on its results of operations and the continued availability of external financing." This disclosure fails to mention that Adelphia lacked the ability to obtain such external financing because it was contractually prohibited from taking on additional indebtedness by covenants in the indenture agreements for its previous bond issues and the restrictions in its credit agreements.

• Also under Item 7, the 1999 10-K described Adelphia's "financing strategy." This disclosure repeated the false figure of $9,291,732,000 for Adelphia's total outstanding debt for the year ended December 31, 1999. In addition, there was no disclosure that part of Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for their personal use. As for the financing transactions, there was no disclosure of Adelphia's breach of its indentures' restrictions on indebtedness or that purchases of Adelphia securities by the Rigas Family were financed with proceeds from the co-borrowing facilities.

• The 1999 10-K sets forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at December 31,

1999" as follows: (a) $390,746,000 during the year ended December 31, 2000; (b) $285,401,000 during the year ended December 31, 2001; (c) $886,571,000 during the year ended December 31, 2002; (d) $1,341,190,000 during the year ended December 31, 2003; and (e) $919,147,000 during the year ended December 31, 2004. These amounts were dramatically understated, given that the "amounts outstanding at December 31, 1999" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

379. The January 2001 Prospectus incorporated by reference the materially false and misleading March 2000 10-Q and June 2000 10-Q described above.

380. In addition, the January 2001 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended September 30, 2000 (filed with the SEC on or about November 14, 2000) (the "September 2000 10-Q"). The September 2000 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total unconsolidated debt of $9,769,046,000 and total consolidated debt of $11,005,411,000, including subsidiary debt of $7,582,178,000 and parent debt of $3,423,233,000.

381. The September 2000 10-Q also stated:

> The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions of Form 10-Q and Rule 10-01 of Regulation S-X. Such principles are applied on a basis consistent with those reflected in the December 31, 1999 Form

10-K Report of the Company filed with the Securities and Exchange Commission. The condensed consolidated financial statements contained herein should be read in conjunction with the consolidated financial statements and related notes contained in the Company's 1999 Annual Report on Form 10-K. In the opinion of management, the unaudited condensed financial statements contained herein include all adjustments (consisting of only recurring adjustments) necessary for a fair presentation of the results of operations for the interim periods presented.

382. The September 2000 10-Q also falsely represented that Adelphia had a total of 5,190,506 basic cable subscribers.

383. Adelphia's publicly-reported results for the third quarter of 2000 as reported in the September 2000 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $1.4 billion through the deliberate omission of co-borrowing debt. The September 2000 10-Q also overstated Adelphia's subscribers by tens of thousands. As a result, the representation in the September 2000 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

384. The January 2001 Prospectus did not provide any additional disclosures concerning the amounts borrowed by the Rigases and the Managed Entities

under the co-borrowing arrangements or the uses to which the proceeds of those borrowings were put.

385. On page S-6, the January 2001 Prospectus represented that the "Notes are unsecured indebtedness of the Adelphia Parent Company ranking junior to other unsubordinated indebtedness of the Adelphia Parent Company and pari passu in right of payment to any future subordinated indebtedness of the Adelphia Parent Company." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of notes constituting the other "subordinated indebtedness" using proceeds from the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is senior in repayment priority to the notes issued in the January 2001 Offering as well as to unsubordinated notes senior to the January 2001 notes, a substantial portion of the other "subordinated indebtedness" was, in fact, senior to, and not subordinated to, those notes.

386. On pages S-6 to S-7, the January 2001 Prospectus represented that, as of September 30, 2000, the "Notes would have been subordinated to approximately \$3.4 billion of senior debt of Adelphia Parent Company and the Notes would have been effectively subordinated to approximately \$8.8 billion of indebtedness and redeemable preferred stock of Adelphia's subsidiaries; and Adelphia and its subsidiaries' total indebtedness excluding redeemable preferred stock would have been approximately \$12.9

billion." These statements were materially false and misleading because, by not taking the amount of borrowings by the Rigases and the Managed Entities under the co-borrowing arrangements into account, the January 2001 Prospectus understated the amounts of indebtedness senior to the notes and Adelphia's total indebtedness by at least $1.2 billion. This materially misleading representation was repeated on page S-8 of the January 2001 Prospectus.

387. On page S-7, the January 2001 Prospectus represented that the net proceeds from the January 2001 Offering would be used to repay proceeds under its revolving credit facilities, "all of which, subject to compliance with the terms of and maturity of that revolving credit facility, may be reborrowed." This statement was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due. The January 2001 Prospectus repeated these misleading representations on page S-22.

388. On page S-9, in its discussion of "Risk Factors," the January 2001 Prospectus stated that Adelphia had total indebtedness of $11.0 billion as of September 30, 2000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in

an understatement of Adelphia's total indebtedness of at least $1.2 billion.

389. The description of the maturity for various classes of Adelphia's debt that appeared on page S-9 of the January 2001 Prospectus was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due.

390. On page S-9, the January 2001 Prospectus stated that Adelphia's total convertible preferred stock, common stock and other stockholders' equity at September 30, 2000 was approximately $3.9 billion. This statement was materially false and misleading in that it overstated stockholders' equity by failing to account for the fact that the Rigases purchased Adelphia equity securities using proceeds from the co-borrowing arrangements which the Company was liable to repay. Rather than inject new equity into Adelphia, the securities purchased by the Rigases in reality created bank debt that was senior to the notes purchased by Huff.

391. On page S-17, the January 2001 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources

beyond simply its ability to elect the Board of Directors. Nor did the January 2001 Prospectus disclose the degree to which the Rigases were exercising that day-to-day control to self-deal.

392. On page S-18, the January 2001 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the January 2001 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the January 2001 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the January 2001 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the

transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the January 2001 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

393. On page S-23, the January 2001 Prospectus represented that Adelphia's total debt as of September 30, 2000 was $11,005,411,000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

394. On page 4, in its discussion of "Risk Factors," the May 1999 Prospectus stated that Adelphia had total indebtedness of approximately $3.5 billion as of December 31, 1998. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

395. On pages 10-11, the May 1999 Prospectus stated that the Rigases at the time effectively

controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the May 1999 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

396. On page 11, the May 1999 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the May 1999 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts, when they do arise, will be brought to the attention of Adelphia's Board of Directors and evaluated for their fairness to Adelphia, the May 1999 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not brought to the Board's attention and were not the subject of fairness opinions. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the

nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; and (4) the impact of such transactions on the operations and financial condition of Adelphia. Specifically, the May 1999 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

IX. The June 2001 Offering

A. Background

397. The June 2001 Offering was made pursuant to the May 1999 Prospectus, the May 1999 Registration Statement, as well as a supplemental prospectus, dated June 7, 2001 (the "June 2001 Prospectus"), which Adelphia filed with the SEC on June 8, 2001 pursuant to Rule 424(b)(5). Both the May 1999 Prospectus and the June 2001 Prospectus are incorporated as part of the May 1999 Registration Statement.

398. Salomon, Citibank, Citigroup, Citicorp, Banc of America, BOA, BMO, Bank of Montreal, J. P. Morgan, Chase Bank, CIBC, CI, Credit Suisse, CSFB, Deutsche Bank, DBAG, TD Securities and TDI acted as underwriters in connection with the June 2001 Offering (collectively, the "June 2001 Offering Underwriters").

399. Salomon and Banc of America were the lead underwriters for this offering. Because Adelphia intended to use more than 10% of the net proceeds from the June 2001 Offering to repay indebtedness owed to Citibank, an affiliate of Salomon, CIBC agreed to act as the qualified independent underwriter for pricing the offering and conducting due diligence in accordance with Rule 2710(c)(8) of the Conduct Rules of the National Association of Securities Dealers, Inc.

400. John Rigas, Michael Rigas, Timothy Rigas, and James Rigas each signed the May 1999 Registrations Statement on behalf of Adelphia.

401. Deloitte consented to being named as an expert in the June 2001 Prospectus as having audited and certified the consolidated financial statements for Adelphia as of December 31, 1999 and 2000, and for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000 incorporated by reference into the June 2001 Prospectus from Adelphia's Form 10-K for the year ended December 31, 2000.

402. Buchanan consented to being named as an expert in the June 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the June 2001 Offering.

403. Latham consented to being named as an expert in the June 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the June 2001 Offering.

404. As detailed below, the May 1999 Prospectus and June 2001 Prospectus, both of which were

incorporated in the May 1999 Registration Statement, contained numerous materially misleading statements and omitted information material to investors in the securities issued by Adelphia in the June 2001 Offering.

405. Huff participated in the June 2001 Offering by purchasing 10 ¼% Senior Notes from the June 2001 Offering Underwriters. In addition, subsequent to the June 2001 Offering, Huff made additional purchases on the secondary market of 10 ¼% Senior Notes that Adelphia issued as part of the June 2001 Offering. In making these purchases, Huff actually relied on the misleading statements and omissions contained in the May 1999 Prospectus, June 2001 Prospectus and May 1999 Registration Statement.

B. Materially Misleading Statements

406. Prior to the June 2001 Offering, two underwriters for that offering issued reports to the investing public touting Adelphia's creditworthiness. Credit Suisse, one of the underwriters for the June 2001 Offering, issued a report dated May 15, 2001 (the "May 15 Credit Suisse Report"), which was disseminated to and received and reviewed by members of the investing public, including Huff. In that report, Credit Suisse rated Adelphia securities as "Attractive." Credit Suisse also made the following representation:

> [Adelphia] continues to make significant progress on improving its liquidity while also taking advantage of equity and equity-like securities, which clearly benefits senior note holders. Taking into consideration $900 million

of gross proceeds from last month's 3.25% convertible subordinated notes offering, and approximately $1.5 billion of expected incremental bank availability, the company estimates that it will end the year with approximately $2 billion of availability at year-end 2001 (before any asset sale proceeds). Steady gains in new service revenues and further margin improvements are expected for the balance of the year.

407. These statements contained in the May 15 Credit Suisse Report were totally false in that they failed to disclose what Credit Suisse knew to be the case -- that a substantial portion of the 3.25% convertible subordinated notes and equity securities issued by Adelphia were purchased by the Rigas Family using the proceeds of co-borrowing facilities which Adelphia was liable to repay. Because this effectively rendered the 3.25% convertible subordinated notes and equity securities bank debt that was senior to Huff's senior notes, Adelphia's issuance of the 3.25% notes and the equity securities did not benefit senior note holders like Huff. Moreover, Credit Suisse failed to disclose that the Rigas Family had borrowed billions of dollars under the co-borrowing facilities, with the result that far less than $1.5 billion would be available to the Company under its bank credit facilities as of the end of 2001.

408. Salomon, one of the lead underwriters for the June 2001 Offering, issued a similar report on or about May 14, 2001 (the "May 14 Salomon Report"), which was disseminated to and received and reviewed by members of the investing public, including Huff. In this report, Salomon made a "Buy" recommendation for

Adelphia senior debt securities, and stated that it "continue[s] to value the senior debt of [Adelphia] at a Mid Single B with a stable credit trend." Addressing Adelphia's leverage, Salomon represented in the May 14 Salomon Report that it "stand[s] by [Salomon's] contention that leverage will fall over the course of the year behind a ramp-up of cash flow and the divestiture of cable subscribers."

409. These statements in the May 14 Salomon Report were totally false in that they failed to disclose what Salomon knew to be the case -- that, because of the Managed Entities' undisclosed use of the co-borrowing facilities, Adelphia's creditworthiness was far worse than Salomon represented. In addition, Salomon knew at the time that, because of the co-borrowing facilities and the Managed Entities' borrowings thereunder, Adelphia's leverage was only going to increase over time, not decrease.

410. The June 2001 Prospectus incorporated by reference Adelphia's Form 10-K for the year ended December 31, 2000, as amended by its Form 10-K/A (the "2000 10-K"). Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the 2000 10-K contains a host of distortions, misrepresentations and outright fabrications.

411. Beginning on page F-1, the 2000 10-K presented Adelphia's consolidated balance sheets and financial statements for the years ended December 31, 1999 and December 31, 2000.

412. The consolidated financial statements for Adelphia contained in the 2000 10-K stated that the

total consolidated debt for Adelphia and its subsidiaries was $9,291,732,000 for the year ended December 31, 1999, and $12,603,413,000 for the year ended December 31, 2000. Immediately prior to the presentation of this information in the 2000 10-K is the Independent Auditors' Report of Deloitte. In the Auditors' Report, Deloitte makes the following representations:

• that Deloitte functioned as an "independent" auditor;

• that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of December 31, 1999 and 2000, and the related consolidated statements of operation and comprehensive income (loss), of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000;"

• that Deloitte "conducted [its] audits in accordance with auditing standards generally accepted in the United States of America;"

• that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

• that, in Deloitte's opinion, Adelphia's "consolidated financial statements "present fairly, in all material respects, the financial position of Adelphia Communications Corporation and its subsidiaries at December 31, 1999 and 2000, and the results of their

operations and their cash flows for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000 in conformity with accounting principles generally accepted in the United States of America;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the 2000 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole, present fairly in all material respects the information set forth therein."

413. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidated balance sheets and financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, the consolidated financial statements contained in the 2000 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

• Total parent and subsidiary debt was represented to be $9,291,732,000 for the year ended December 31, 1999 and $12,603,413,000 for the year ended December 31, 2000. In fact, these figures understated Adelphia's total consolidated debt by at least $700 million for the period ending December 31, 1999 and $1.2 billion for the year ended December 31, 2000.

• Total convertible preferred stock, common stock and other stockholders' equity were represented to be $3,742,302,000 for the year ended December 31, 1999 and $4,150,279,000 for the year ended December 31, 2000. In fact, these figures overstated Adelphia's stockholder equity by hundreds of millions of dollars by failing to account for the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenues were overstated due to management fees due from the Managed Entities which were neither paid nor intended to be paid, and due to the inflation of Adelphia's subscribers.

• Capital expenditures were grossly overstated.

• As subsequently disclosed in the June 10, 2002 8-K, EBITDA was overstated by at least $160 million for the year ended December 31, 2000.

• Interest expense - net was represented to be $180,452,000 for the nine months ended December 31, 1998, $359,585,000 for the year ended December 31, 1999, and $922,865,000 for the year ended December 31, 2000. In fact, these figures understated interest expense by hundreds of millions of dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total SG&A expenses were represented to be $107,249,000 for the nine months ended December 31, 1998, $340,579,000 for the year ended December 31, 1999, and $749,612,000 for the year ended December 31, 2000. In fact, these figures

were understated by hundreds of millions of dollars by failing to account for amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A expenses and interest expenses had the further effect of understating the amount of Adelphia's net losses for the same periods, which had been represented to be $93,826,000 for the nine months ended December 31, 1998, $240,719,000 for the year ended December 31, 1999, and $602,484,000 for the year ended December 31, 2000, but which were substantially higher in reality.

• The portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $999,079,000 for the nine months ended December 31, 1998, $2,978,313,000 for the year ended December 31, 1999, and $3,516,804,000 for the year ended December 31, 2000. These figures were overstated by several hundred million dollars because of the failure to account for the Managed Entities co-borrowing activities and purchases of Adelphia debt securities using co-borrowed funds, which resulted in overstatement of Adelphia's proceeds from debt and understatement of Adelphia's repayments of debt on which figures the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

414. Although Adelphia acknowledged the existence of the co-borrowing arrangements in the

2000 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt. Specifically, with respect to the co-borrowing facilities, Adelphia stated in a footnote:

> Certain subsidiaries of Adelphia are co-borrowers with Managed Entities under credit facilities for borrowings of up to $3,751,250[,000]. Each of the co-borrowers is liable for all borrowings under the credit agreements, and may borrow up to the entire amount of the available credit under the facility. The lenders have no recourse against Adelphia other than against Adelphia's interest in such subsidiaries.

415. This is the entire disclosure related to the co-borrowing facilities. This statement's rank inadequacy is apparent simply by contrasting it to the disclosures concerning the co-borrowing facilities contained in Adelphia's May 2002 8-K.

416. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiaries, but which were also available for the use for legitimate business purposes of the Managed Entities, all of which were managed by Adelphia for a fee. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangements were strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas

Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entities under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had borrowed $1.2 billion as of December 31, 2000.

417. The statement concerning the co-borrowing arrangements was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facilities had been drawn down, which left the misleading impression that no amounts had been drawn down;

(2) which entities drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiaries was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the 2000 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entities that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entities actually lacked the ability to repay, then Huff would have known that a high likelihood existed

that Adelphia and its subsidiaries would have to pay those loans.

418. The 2000 10-K contained the following additional material misrepresentations and omissions:

• Under Item 1, the 2000 10-K stated that Adelphia "provides management and consulting services" to the Managed Entities, without disclosing that those Managed Entities, in the course of their operations, have borrowed money under the co-borrowing arrangements to finance the purchase of Adelphia securities by the Rigases and other Rigas entities.

• Also under Item 1, the 2000 10-K stated that Adelphia's "operations consist of providing telecommunications services primarily over its broadband networks," without disclosing that Adelphia's operations also included advancing and lending money to the Rigas Family and entities controlled by the Rigas Family for a wide variety of other businesses and investments, including golf course development, real estate, provision of venture capital, professional hockey and filmmaking.

• Item 1 of the 2000 10-K incorporated by reference the financial information contained in the audited financial statements discussed above, which, for the reasons stated above are materially incomplete and misleading.

• Under Item 2, the 2000 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral in connection with the Company's credit arrangements,

either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

- Under Item 7, the 2000 10-K discussed Adelphia's need for liquidity and continual financing to conduct, maintain, upgrade and acquire its cable systems, noting that Adelphia's "ability to generate cash to meet its future needs will depend generally on its results of operations and the continued availability of external financing." This disclosure fails to mention that Adelphia lacked the ability to obtain such external financing because it was contractually prohibited from taking on additional indebtedness by covenants in the indenture agreements for its previous bond issues and the restrictions in its credit agreements.

- Also under Item 7, the 2000 10-K described Adelphia's "financing strategy" and discussed various financing transactions that took place between July and September 2000. This disclosure repeated the false figure of $12,603,413,000 for Adelphia's total outstanding debt for the year ended December 31, 2000. In addition, there was no disclosure that part of

Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for their personal use. As for the financing transactions, there was no disclosure of Adelphia's breach of its indentures' restrictions on indebtedness or that purchases of Adelphia securities by the Rigas Family were financed with proceeds from the co-borrowing facilities.

• The 2000 10-K set forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at December 31, 2000" as follows: (a) $306,000,000 during the year ended December 31, 2001; (b) $986,866,000 during the year ended December 31, 2002; (c) $1,506,454,000 during the year ended December 31, 2003; (d) $1,244,571,000 during the year ended December 31, 2004; and (e) $1,360,647,000 during the year ended December 31, 2005. These amounts were dramatically understated, given that the "amounts outstanding at December 31, 2000" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

• In Item 8, the 2000 10-K discussed a direct placement of Adelphia stock with the Rigases in January 2001. These statements were materially false and misleading in that they failed to disclose that the Rigases had used proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the 2000 10-K misled investors into believing that the Rigases were injecting new liquidity into Adelphia by means of these

direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities. Furthermore, by not disclosing these borrowings, the 2000 10-K concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans. Nor does the 2000 10-K disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

419. The June 2001 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended March 31, 2001 (filed with the SEC on or about May 15, 2001) (the "March 2001 10-Q"). The March 2001 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total unconsolidated debt of $12,474,439,000 and total consolidated debt of $13,661,372,000, including subsidiary debt of $9,374,821,000 and parent debt of $4,286,372,000.

420. The March 2001 10-Q also stated:

> The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions of Form 10-Q and Rule 10-01 of Regulation S-X. Such principles are applied on a basis consistent with

those reflected in the December 31, 2000 Form 10-K Report of the Company filed with the Securities and Exchange Commission. The condensed consolidated financial statements contained herein should be read in conjunction with the consolidated financial statements and related notes contained in the December 31, 2000 Annual Report on Form 10-K. In the opinion of management, the unaudited condensed financial statements contained herein include all adjustments (consisting of only recurring adjustments) necessary for a fair presentation of the results of operations for the interim periods presented.

421. The March 2001 10-Q also falsely represented that Adelphia had a total of 5,723,315 basic cable subscribers.

422. Adelphia's publicly-reported results for the first quarter of 2001 as reported in the March 2001 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $1.2 billion through the deliberate omission of co-borrowing debt. The March 2001 10-Q also overstated Adelphia's subscribers by tens of thousands. As a result, the representation in the March 2001 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

423. The June 2001 Prospectus did not provide any additional disclosures concerning the amounts borrowed by the Rigases and the Managed Entities

under the co-borrowing arrangements or the uses to which the proceeds of those borrowings were put.

424. As a result of Adelphia's concealment of the true amount of its consolidated debt, the June 2001 Prospectus was materially misleading because Adelphia lacked the authority to issue any securities in the June 2001 Offering. The indenture agreements for each of Adelphia's offerings of senior notes prior to the June 2001 Offering contained a covenant limiting Adelphia's ability to incur new debt. Specifically, the limitation on indebtedness covenant provided that

> Adelphia will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume or become liable for, contingently or otherwise (collectively an "incurrence"), any Indebtedness unless, after giving effect to such incurrence on a pro forma basis, Indebtedness of Adelphia and its Restricted Subsidiaries, on a consolidated basis, shall not be more than the product of the Annualized Pro Forma EBITDA for the latest fiscal quarter preceding such incurrence for which financial statements are available, multiplied by 8.75.

425. Had the amounts borrowed by the Managed Entities been included in Adelphia's total consolidated debt, which they should have been, Adelphia's total Indebtedness prior to the June 2001 Offering would have exceeded 8.75 x its Annualized Pro Forma EBITDA for the most recent fiscal quarter preceding the June 2001 Offering. Consequently, Adelphia was prohibited by the indenture agreements for its prior bond offerings from issuing any securities in

connection with the June 2001 Offering, and its representation to the contrary in the June 2001 Prospectus was materially false and misleading.

426. On pages S-2 to S-3, the June 2001 Prospectus discussed three direct placements of Adelphia subordinated notes and stock with the Rigases in January and April 2001. These statements were materially false and misleading in that they failed to disclose that the Rigases had used proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the June 2001 Prospectus misled investors into believing that the Rigases were injecting new equity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities which was senior to the notes Huff purchased. Furthermore, by not disclosing these borrowings, the June 2001 Prospectus concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans, or that the Managed Entities were unable to repay. Nor does the June 2001 Prospectus disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

427. On page S-5, the June 2001 Prospectus represented that the "Notes are unsecured indebtedness of the Adelphia Parent Company ranking pari passu with other unsubordinated indebtedness of the Adelphia Parent Company and senior in right of payment to any future subordinated indebtedness of the Adelphia Parent Company." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of notes constituting the "subordinated indebtedness" using proceeds from the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is senior in repayment priority to the notes issued in the June 2001 Offering, a substantial portion of the "subordinated indebtedness" was, in fact, senior to, and not subordinated to, those notes.

428. On pages S-5 to S-6, the June 2001 Prospectus represented that, as of March 31, 2001, the "Notes would have been effectively subordinated to approximately $7.4 billion of indebtedness and redeemable preferred stock of Adelphia's subsidiaries; and our total indebtedness excluding redeemable preferred stock would have been approximately $13.5 billion." These statements were materially false and misleading because, by not taking the amount of borrowings by the Rigases and the Managed Entities under the co-borrowing arrangements into account, the June 2001 Prospectus understated the amounts of indebtedness senior to the notes and Adelphia's total indebtedness by at least $1.2 billion. This materially

misleading representation was repeated on page S-8 of the June 2001 Prospectus.

429. On page S-7, the June 2001 Prospectus represented that the net proceeds from the June 2001 Offering would be "used to repay borrowings under its revolving credit facility, all of which, subject to compliance with the terms of and maturity of that revolving credit facility, may be reborrowed." This statement was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due. The June 2001 Prospectus repeated these misleading representations on page S-20.

430. On page S-8, in its discussion of "Risk Factors," the June 2001 Prospectus stated that Adelphia had total indebtedness of $13.7 billion as of March 31, 2001. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

431. The description of the maturity for various classes of Adelphia's debt that appears on pages S-8 to S-9 of the June 2001 Prospectus was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the

Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due.

432. On page S-9, the June 2001 Prospectus stated that Adelphia's total convertible preferred stock, common stock and other stockholders' equity at March 31, 2001 was approximately $5.2 billion. This statement was materially false and misleading in that it overstated stockholders' equity by failing to account for the fact that the Rigases purchased Adelphia equity securities using proceeds from the co-borrowing arrangements which the Company was liable to repay. Rather than inject new equity into Adelphia, the securities purchased by the Rigases in reality created bank debt that was senior to the notes purchased by Huff.

433. On page S-16, the June 2001 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the June 2001 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

434. On page S-17, the June 2001 Prospectus stated that the outside business activities of the

Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the June 2001 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the June 2001 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the June 2001 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing

arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

435. On page S-21, the June 2001 Prospectus represented that Adelphia's total debt as of March 31, 2001 was $13,661,372,000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

436. On page S-28, the June 2001 Prospectus represented that Adelphia's "6% convertible subordinated notes due 2006 and 3.25% convertible subordinated notes due 2021 are subordinated to our other senior public debt and we will designate the Notes as senior debt for purposes of these subordinated notes." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of the "subordinated notes" using proceeds from the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is ostensibly senior in repayment priority to the notes issued in the June 2001 Offering, a substantial portion of the "subordinated notes" was,

in fact, effectively senior to, and not subordinated to, the notes issued in the June 2001 Offering.

437. Buchanan and Latham issued legal opinions that the senior notes issued in the June 2001 Offering were validly issued and constituted valid and binding obligations against the Company. These opinions were materially false and misleading in that they failed to disclose that the June 2001 Offering, in fact, violated the limitation on indebtedness covenants contained in the indenture agreements for Adelphia's prior senior note issues.

438. On page 4, in its discussion of "Risk Factors," the May 1999 Prospectus stated that Adelphia had total indebtedness of approximately $3.5 billion as of December 31, 1998. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness.

439. On pages 10-11, the May 1999 Prospectus stated the fact that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the May 1999 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

440. On page 11, the May 1999 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the May 1999 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the May 1999 Prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts, when they do arise, will be brought to the attention of Adelphia's Board of Directors and evaluated for their fairness to Adelphia, the May 1999 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not brought to the Board's attention and were not the subject of fairness opinions. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; and (4) the impact of such transactions on the operations and financial condition of Adelphia. Specifically, the May 1999 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had

received numerous cash "advances" from Adelphia which they used for their own personal benefit.

X. The October 2001 Offering

A. Background

441. The October 2001 Offering was made pursuant to a prospectus, dated July 20, 2001 (the "July 2001 Prospectus"), which Adelphia filed with the SEC as part of a Form S-3 Registration Statement, Registration No. 333-64224, on July 20, 2001 (the "July 2001 Registration Statement"), as well as a supplemental prospectus, dated October 19, 2001 (the "October 2001 Prospectus"), which Adelphia filed with the SEC on October 23, 2001 pursuant to Rule 424(b)(5). Both the July 2001 Prospectus and the October 2001 Prospectus are incorporated as part of the July 2001 Registration Statement.

442. Credit Suisse, CSFB, BMO, Bank of Montreal, BNY, BONY, CIBC, CI, Credit Lyonnais, CL, Fleet, Mizuho, Scotia Capital, BNS, Cowen, Societe Generale, TD Securities, TDI and The Royal Bank acted as underwriters in connection with the October 2001 Offering (collectively, the "October 2001 Offering Underwriters"). Credit Suisse was the lead underwriter for this offering. Because Adelphia intended to use more than 10% of the net proceeds from the October 2001 Offering to repay indebtedness owed to commercial bank affiliates of certain October 2001 Offering Underwriters, Fleet agreed to act as the qualified independent underwriter for pricing the offering and conducting due diligence in accordance with Rule 2710(c)(8) of the Conduct Rules of the National Association of Securities Dealers, Inc.

443. John Rigas, Michael Rigas, Timothy Rigas, James Rigas and Peter Venetis each signed the July 2001 Registration Statement on behalf of Adelphia.

444. Deloitte consented to being named as an expert in the July 2001 Prospectus, the July 2001 Registration Statement and the October 2001 Prospectus as having audited and certified the consolidated financial statements for Adelphia as of December 31, 1999 and 2000, and for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000 incorporated by reference into the October 2001 Prospectus from Adelphia's Form 10-K for the year ended December 31, 2000.

445. Buchanan consented to being named as an expert in the October 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the October 2001 Offering.

446. Latham consented to being named as an expert in the October 2001 Prospectus as having provided an expert legal opinion as to the validity of the notes issued in the October 2001 Offering.

447. As detailed below, the July 2001 Prospectus and October 2001 Prospectus, both of which were incorporated in the July 2001 Registration Statement, contained numerous materially misleading statements and omitted information material to investors in the securities issued by Adelphia in the October 2001 Offering.

448. Subsequent to the October 2001 Offering, Huff made additional purchases on the secondary market of 10 ¼% Senior Notes that Adelphia issued as

part of the October 2001 Offering. In making these purchases, Huff actually relied on the misleading statements and omissions contained in the July 2001 Prospectus, October 2001 Prospectus and July 2001 Registration Statement.

B. Materially Misleading Statements

449. The July 2001 Prospectus, October 2001 Prospectus and the July 2001 Registration Statement incorporated by reference Adelphia's 2000 10-K. Far from presenting an accurate picture of the financial operations and condition of Adelphia and its subsidiaries and affiliates, the 2000 10-K contained a host of distortions, misrepresentations and outright fabrications.

450. Beginning on page F-1, the 2000 10-K presented Adelphia's consolidated balance sheets and financial statements for the years ended December 31, 1999 and December 31, 2000.

451. The consolidated financial statements for Adelphia contained in the 2000 10-K stated that the total consolidated debt for Adelphia and its subsidiaries was $9,291,732,000 for the year ended December 31, 1999, and $12,603,413,000 for the year ended December 31, 2000. Immediately prior to the presentation of this information in the 2000 10-K was the Independent Auditors' Report of Deloitte. In the Auditors' Report, Deloitte made the following representations:

- that Deloitte functioned as an "independent" auditor;

• that Deloitte conducted an audit of the "consolidated balance sheets of Adelphia Communications Corporation and subsidiaries as of December 31, 1999 and 2000, and the related consolidated statements of operation and comprehensive income (loss), of convertible preferred stock, common stock and other stockholders' equity (deficiency), and of cash flows for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000;"

• that Deloitte "conducted [its] audits in accordance with auditing standards generally accepted in the United States of America;"

• that Deloitte's audits "provide a reasonable basis for" its opinion concerning Adelphia's financial statements;

• that, in Deloitte's opinion, Adelphia's "consolidated financial statements "present fairly, in all material respects, the financial position of Adelphia Communications Corporation and its subsidiaries at December 31, 1999 and 2000, and the results of their operations and their cash flows for the nine months ended December 31, 1998 and the years ended December 31, 1999 and 2000 in conformity with accounting principles generally accepted in the United States of America;" and

• that, in Deloitte's opinion, the financial statement schedules contained in the 2000 10-K, which Deloitte also represented it had audited in accordance with GAAS, "when considered in relation to the basic consolidated financial statements taken as a whole,

present fairly in all material respects the information set forth therein."

452. All of the above representations were materially false and misleading in that Deloitte did not function as an independent auditor and did not audit Adelphia's consolidated balance sheets and financial statements in accordance with GAAS. Moreover, by failing to account for the amounts borrowed by the Managed Entities under the co-borrowing facilities, the consolidated financial statements contained in the 2000 10-K were not prepared in accordance with GAAP and, indeed, provided a grossly deceptive presentation of the following material aspects of Adelphia's operations and financial condition:

- Total parent and subsidiary debt was represented to be $9,291,732,000 for the year ended December 31, 1999 and $12,603,413,000 for the year ended December 31, 2000. In fact, these figures understated Adelphia's total consolidated debt by at least $700 million for the period ending December 31, 1999 and $1.2 billion for the year ended December 31, 2000.

- Total convertible preferred stock, common stock and other stockholders' equity were represented to be $3,742,302,000 for the year ended December 31, 1999 and $4,150,279,000 for the year ended December 31, 2000. In fact, these figures overstated Adelphia's stockholder equity by hundreds of millions of dollars by failing to account for the fact that the equity securities purchased by the Rigases were paid for with funds borrowed under the co-borrowing facilities, which Adelphia and its subsidiaries are liable to repay.

• Revenues were overstated due to management fees due from the Managed Entities that were neither paid nor intended to be paid, and due to the inflation of Adelphia's subscribers.

• Capital expenditures were grossly overstated.

• As subsequently disclosed in the June 10, 2002 8-K, EBITDA was overstated by at least $160 million for the year ended December 31, 2000.

• Interest expense - net was represented to be $180,452,000 for the nine months ended December 31, 1998, $359,585,000 for the year ended December 31, 1999, and $922,865,000 for the year ended December 31, 2000. In fact, these figures understated interest expense by hundreds of millions of dollars by failing to account for interest due on the borrowings by the Managed Entities under the co-borrowing facilities.

• Similarly, total SG&A expenses were represented to be $107,249,000 for the nine months ended December 31, 1998, $340,579,000 for the year ended December 31, 1999, and $749,612,000 for the year ended December 31, 2000. In fact, these figures were understated by hundreds of millions of dollars by failing to account for amounts spent by Adelphia in connection with the operations of the Managed Entities.

• The understatements of SG&A expenses and interest expenses had the further effect of understating the amount of Adelphia's net losses for the same periods, which had been represented to be $93,826,000 for the nine months ended December 31, 1998, $240,719,000 for the year ended December 31,

1999, and $602,484,000 for the year ended December 31, 2000, but which were substantially higher in reality.

• The portions of the statements concerning Adelphia's cash flows were also misleading. Specifically, net cash provided by financing activities was represented to be $999,079,000 for the nine months ended December 31, 1998, $2,978,313,000 for the year ended December 31, 1999, and $3,516,804,000 for the year ended December 31, 2000. These figures were overstated by several hundred million dollars because of the failure to account for the Managed Entities' co-borrowing activities and purchases of Adelphia debt securities using co-borrowed funds, which resulted in overstatement of Adelphia's proceeds from debt and understatement of Adelphia's repayments of debt on which figures the calculation of net cash provided by financing activities depends. In addition, the interest expenses in the calculation of Adelphia's cash flows were also understated as a result of the concealment of the co-borrowing arrangements.

453. Although Adelphia acknowledged the existence of the co-borrowing arrangements in the 2000 10-K, the amounts of the Managed Entities' borrowings under the co-borrowing arrangements were not included in Adelphia's statement of its total consolidated debt Specifically, with respect to the co-borrowing facilities, Adelphia stated in a footnote:

> Certain subsidiaries of Adelphia are co-borrowers with Managed Entities under credit facilities for borrowings of up to $3,751,250[,000]. Each of the co-borrowers is liable for all borrowings under the credit

agreements, and may borrow up to the entire amount of the available credit under the facility. The lenders have no recourse against Adelphia other than against Adelphia's interest in such subsidiaries.

454. This is the entire disclosure related to the co-borrowing facilities. This statement's rank inadequacy is apparent simply by contrasting it to the disclosures concerning the co-borrowing facilities made in Adelphia's May 2002 8-K.

455. This statement was materially false and misleading in that it represented to Adelphia investors that the co-borrowing arrangements were simply additional credit lines available for the legitimate business purposes of Adelphia's subsidiaries, but which were also available for the use for legitimate business purposes of the Managed Entities, all of which were managed by Adelphia for a fee. In reality, this disclosure hid from Adelphia's investors the true state of affairs, which was that the co-borrowing arrangements were strictly an artifice to conceal what was in actuality a guarantee by Adelphia of loans issued for the private use and benefit of the Rigas Family. In addition, when combined with the failure to include the amounts borrowed by the Managed Entities under the co-borrowing arrangements in the figures for Adelphia's consolidated debt, the disclosure quoted above misleads readers into believing that no amounts had been borrowed under the co-borrowing facilities, when in fact the Rigases had borrowed $1.2 billion as of December 31, 2000.

456. The statement concerning the co-borrowing arrangements was also materially misleading in that it failed to disclose:

(1) whether and in what amounts the co-borrowing facilities had been drawn down, which left the misleading impression that no amounts had been drawn down;

(2) which entities drew down on the facilities, which would inform the investor whether the credit of Adelphia's subsidiaries was being used for a legitimate purpose;

(3) what the proceeds were used for. In fact, the 2000 10-K concealed the fact that the Managed Entities were using the proceeds of the co-borrowing facilities to purchase securities in Adelphia and other assets for the private use of the Rigas family; and

(4) whether the entities that borrowed funds under the facilities had the financial ability to repay those borrowings. If it had been disclosed that the Managed Entities actually lacked the ability to repay, then Huff would have known that a high likelihood existed that Adelphia and its subsidiaries would have to pay those loans.

457. The 2000 10-K contained the following additional material misrepresentations and omissions:

• Under Item 1, the 2000 10-K stated that Adelphia "provides management and consulting services" to the Managed Entities, without disclosing

that those Managed Entities, in the course of their operations, have borrowed money under the co-borrowing arrangements to finance the purchase of Adelphia securities by the Rigases and other Rigas entities.

• Also under Item 1, the 2000 10-K stated that Adelphia's "operations consist of providing telecommunications services primarily over its broadband networks," without disclosing that Adelphia's operations also included advancing and lending money to the Rigas Family and entities controlled by the Rigas Family for a wide variety of other businesses and investments, including golf course development, real estate, provision of venture capital, professional hockey and filmmaking.

• Item 1 of the 2000 10-K incorporates by reference the financial information contained in the audited financial statements discussed above, which, for the reasons stated above are materially incomplete and misleading.

• Under Item 2, the 2000 10-K stated that substantially all of the assets of Adelphia's subsidiaries "are subject to encumbrances as collateral in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock in the respective subsidiaries." What this failed to disclose was that the assets of Adelphia's subsidiaries were pledged as collateral for loans taken by the Managed Entities and the Rigas Family that conferred no legitimate business benefits on Adelphia or its subsidiaries. Moreover, when considered in light of the failure to disclose the amounts borrowed by Managed Entities and the Rigas

Family and the inability of those entities to repay, this disclosure misled Huff as to the degree to which the assets of Adelphia and its subsidiaries -- to which Huff looked to satisfy Adelphia's obligations under the securities purchased by Huff -- were at risk of being unavailable to support Adelphia's debt to Huff.

• Under Item 7, the 2000 10-K discussed Adelphia's need for liquidity and continual financing to conduct, maintain, upgrade and acquire its cable systems, noting that Adelphia's "ability to generate cash to meet its future needs will depend generally on its results of operations and the continued availability of external financing." This disclosure failed to mention that Adelphia lacked the ability to obtain such external financing because it was contractually prohibited from taking on additional indebtedness by covenants in the indenture agreements for its previous bond issues and the restrictions in its credit agreements.

• Also under Item 7, the 2000 10-K described Adelphia's "financing strategy" and discussed various financing transactions that took place between July and September 2000. This disclosure repeated the false figure of $12,603,413,000 for Adelphia's total outstanding debt for the year ended December 31, 2000. In addition, there was no disclosure that part of Adelphia's "financing strategy" included the use of co-borrowing facilities with the Managed Entities to finance the Rigas Family's acquisition of Adelphia securities and other assets for their personal use. As for the financing transactions, there was no disclosure of Adelphia's breach of its indentures' restrictions on indebtedness or that purchases of Adelphia securities by the Rigas Family were financed with proceeds from the co-borrowing facilities.

• The 2000 10-K set forth "mandatory reductions in principal under all debt agreements for the next five years based on amounts outstanding at December 31, 2000" as follows: (a) \$306,000,000 during the year ended December 31, 2001; (b) \$986,866,000 during the year ended December 31, 2002; (c) \$1,506,454,000 during the year ended December 31, 2003; (d) \$1,244,571,000 during the year ended December 31, 2004; and (e) \$1,360,647,000 during the year ended December 31, 2005. These amounts were dramatically understated, given that the "amounts outstanding at December 31, 2000" did not include amounts borrowed by the Managed Entities under the co-borrowing facilities.

• In Item 8, the 2000 10-K discussed a direct placement of Adelphia stock with the Rigases in January 2001. These statements were materially false and misleading in that they failed to disclose that the Rigases had used proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the 2000 10-K misled investors into believing that the Rigases were injecting new liquidity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities. Furthermore, by not disclosing these borrowings, the 2000 10-K concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed

Entities became necessary in order to service the loans. Nor does the 2000 10-K disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

458. The October 2001 Prospectus incorporated by reference the materially false and misleading March 2001 10-Q described above.

459. In addition, the October 2001 Prospectus incorporated by reference Adelphia's Form 10-Q for the quarter ended June 30, 2001 (filed with the SEC on or about August 14, 2001) (the "June 2001 10-Q"). The June 2001 10-Q, which was signed by Defendant Timothy Rigas, falsely reported that Adelphia had total unconsolidated debt of $13,060,880,000 and total consolidated debt of $14,407,631,000, including subsidiary debt of $8,545,665,000 and parent debt of $5,861,966,000.

460. The June 2001 10-Q also stated:

> The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions of Form 10-Q and Rule 10-01 of Regulation S-X. Such principles are applied on a basis consistent with those reflected in the December 31, 2000 Form 10-K Report of the Company filed with the Securities and Exchange Commission. The condensed consolidated financial statements contained herein should be read in conjunction

with the consolidated financial statements and related notes contained in the December 31, 2000 Annual Report on Form 10-K. In the opinion of management, the unaudited condensed financial statements contained herein include all adjustments (consisting of only recurring adjustments) necessary for a fair presentation of the results of operations for the interim periods presented.

461. The June 2001 10-Q also falsely represented that Adelphia had a total of 5,672,225 basic cable subscribers.

462. Adelphia's publicly-reported results for the second quarter of 2001 as reported in the June 2001 10-Q were materially false and misleading. As detailed above, Adelphia failed to disclose the full amount of its liability under the co-borrowing facilities. Adelphia's total consolidated debt and total liabilities were understated by at least $1.2 billion through the deliberate omission of co-borrowing debt. The June 2001 10-Q also overstated Adelphia's subscribers by tens of thousands. As a result, the representation in the June 2001 10-Q that Adelphia's financial statements were fairly presented in accordance with SEC rules was also false.

463. Neither the July 2001 Prospectus nor the October 2001 Prospectus provided any additional disclosures concerning the amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements or the uses to which the proceeds of those borrowings were put.

464. As a result of Adelphia's concealment of the true amount of its consolidated debt, the October 2001 Prospectus was materially misleading because Adelphia lacked the authority to issue any securities in the October 2001 Offering. The indenture agreements for each of Adelphia's offerings of senior notes prior to the October 2001 Offering contained a covenant limiting Adelphia's ability to incur new debt. Specifically, the limitation on indebtedness covenant provides that

> Adelphia will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur, issue, assume or become liable for, contingently or otherwise (collectively an "incurrence"), any Indebtedness unless, after giving effect to such incurrence on a pro forma basis, Indebtedness of Adelphia and its Restricted Subsidiaries, on a consolidated basis, shall not be more than the product of the Annualized Pro Forma EBITDA for the latest fiscal quarter preceding such incurrence for which financial statements are available, multiplied by 8.75.

465. Had the amounts borrowed by the Managed Entities been included in Adelphia's total consolidated debt, which they should have been, Adelphia's total Indebtedness prior to the October 2001 Offering would have exceeded 8.75 x its Annualized Pro Forma EBITDA for the most recent fiscal quarter preceding the October 2001 Offering. Consequently, Adelphia was prohibited by the indenture agreements for its prior bond offerings from issuing any securities in connection with the October 2001 Offering, and its

representation to the contrary in the October 2001 Prospectus was materially false and misleading.

466. The cover page of the October 2001 Prospectus stated that the notes to be issued "will be unsecured and will rank senior to our subordinated indebtedness and equally with our other senior indebtedness." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of notes constituting the "subordinated indebtedness" using proceeds from the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is senior in repayment priority to the notes issued in the October 2001 Offering, a substantial portion of the "subordinated indebtedness" was, in fact, senior to, and not subordinated to, those notes.

467. On page S-2, the October 2001 Prospectus stated that Adelphia's "subsidiaries and affiliates" closed on a new $2.03 billion revolving term credit facility on September 28, 2001. After noting that proceeds from the new facility were used to pay amounts due under prior credit agreements, the October 2001 Prospectus noted that the "balance of the facility is available for general corporate purposes." This statement was materially false and misleading in that it failed to disclose that a portion of the balance of the proceeds would be used for the personal benefit of the Rigases.

468. On pages S-1 to S-3, the October 2001 Prospectus discussed three direct placements of Adelphia subordinated notes and stock with the Rigases in January and April 2001. These statements were materially false and misleading in that they failed to disclose that the Rigases had used proceeds from borrowings under the co-borrowing facilities to finance a substantial portion of their direct purchases of these securities, and that they lacked the ability to repay those borrowings. By failing to disclose this information, the October 2001 Prospectus misled investors into believing that the Rigases were injecting new liquidity into Adelphia by means of these direct placements, when, in fact, Adelphia was merely incurring additional, undisclosed debt under the co-borrowing facilities. Furthermore, by not disclosing these borrowings, the October 2001 Prospectus concealed from investors the risk that Adelphia's exposure on the co-borrowing arrangement would increase if the value of the assets supporting the Rigas Family's borrowings -- namely, the price of the Adelphia stock and other securities they bought with those borrowings -- fell to the point that a new infusion of cash into the Managed Entities became necessary in order to service the loans. Nor does the October 2001 Prospectus disclose the risk of a severe adverse impact on Adelphia's stock price in the event that the lender on the co-borrowing facility is required to liquidate the Rigas Family's securities holdings in order to obtain repayment of the loan.

469. On page S-5, the October 2001 Prospectus represented that the "Notes are unsecured indebtedness of the Adelphia Parent Company ranking pari passu with other unsubordinated indebtedness of the Adelphia Parent Company and senior in right of

payment to any future subordinated indebtedness of the Adelphia Parent Company." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of notes constituting the "subordinated indebtedness" using proceeds from the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is senior in repayment priority to the notes issued in the October 2001 Offering, a substantial portion of the "subordinated indebtedness" was, in fact, senior to, and not subordinated to, those notes.

470. On page S-6, the October 2001 Prospectus represented that, as of June 30, 2001, the "Notes would have been effectively subordinated to approximately $8.1 billion of indebtedness and redeemable preferred stock of Adelphia's subsidiaries; and our total indebtedness excluding redeemable preferred stock would have been approximately $14.7 billion." These statements were materially false and misleading because, by not taking the amount of borrowings by the Rigases and the Managed Entities under the co-borrowing arrangements into account, the October 2001 Prospectus understated the amounts of indebtedness senior to the notes and Adelphia's total indebtedness by at least $1.2 billion. This materially misleading representation was repeated on page S-9 of the October 2001 Prospectus.

471. On page S-7, the October 2001 Prospectus represented that the net proceeds from the October

2001 Offering would be used to repay proceeds under its revolving credit facilities, "all of which, subject to compliance with the terms of and maturity of that revolving credit facility, may be reborrowed." This statement was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due.

472. On page S-8, in its discussion of "Risk Factors," the October 2001 Prospectus stated that Adelphia had total indebtedness of $14.4 billion as of June 30, 2001. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

473. On page S-10, the October 2001 Prospectus represented that Adelphia's total convertible preferred stock, common stock and other stockholders' equity at June 30, 2001 was approximately $4.9 billion. This statement was materially false and misleading in that it overstated stockholders' equity by failing to account for the fact that the Rigases purchased Adelphia equity securities using proceeds from the co-borrowing arrangements which the Company was liable to repay. Rather than inject new equity into Adelphia, the securities purchased by the Rigases in reality created

bank debt that was senior to the notes purchased by Huff.

474. The description of the maturity for various classes of Adelphia's debt that appeared on page S-9 of the October 2001 Prospectus was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due. The October 2001 Prospectus repeated these misleading representations on page S-21.

475. On page S-10, the October 2001 Prospectus represented that Adelphia's "Total Convertible Preferred Stock, Common Stock and Other Stockholders' Equity at June 30, 2001 was approximately $4.9 billion." This statement was materially false and misleading in that it overstated the amount of shareholder equity by failing to account for the fact that Rigases had purchases Adelphia stock with the proceeds from borrowings under the co-borrowing arrangements, that the Rigases lacked the ability to repay those borrowings, and that Adelphia and its subsidiaries were, in fact, liable for repayment of that debt.

476. On page S-17, the October 2001 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more

pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the October 2001 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

477. On the same page, the October 2001 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the October 2001 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the October 2001 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers'

affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the October 2001 Prospectus did not disclose that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

478. On page S-22, the October 2001 Prospectus represented that Adelphia's total debt as of June 30, 2001 was $14,407,631,000. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

479. On page S-29, the October 2001 Prospectus represented that Adelphia's "6% convertible subordinated notes due 2006 and 3.25% convertible subordinated notes due 2021 are subordinated to our other senior public debt and we will designate the Notes as senior debt for purposes of these subordinated notes." This statement was materially false and misleading in that it failed to disclose that, in fact, the Rigases had purchased hundreds of millions of dollars worth of the "subordinated notes" using proceeds from

the co-borrowing arrangements and that they lacked the ability to repay their borrowings. Because Adelphia and its subsidiaries are liable to repay the amounts borrowed by the Rigases under the co-borrowing arrangements, and because the debt under the co-borrowing facilities is senior in repayment priority to the notes issued in the October 2001 Offering, a substantial portion of the "subordinated notes" was, in fact, effectively senior to, and not subordinated to, the notes issued in the October 2001 Offering.

480. On page S-48, the October 2001 Prospectus stated that Adelphia is "in compliance with the terms of our credit facilities." This statement was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was (1) in breach of the restrictions on incurring additional indebtedness contained in its credit facilities with its bank lenders, thereby enabling those lenders to accelerate the amounts due; and (2) in breach of the limitation on indebtedness covenants in the indenture agreements for its prior senior note issues.

481. Buchanan and Latham issued legal opinions that the senior notes issued in the October 2001 Offering were validly issued and constituted valid and binding obligations on the Company. These opinions were materially false and misleading in that they failed to disclose that the October 2001 Offering, in fact, violated the limitation on indebtedness covenants contained in the indenture agreements for Adelphia's prior senior note issues.

482. On page 3, in its discussion of "Risk Factors," the July 2001 Prospectus stated that Adelphia had total indebtedness of $13.7 billion as of March 31, 2001. This statement was materially false and misleading in that the figure for total indebtedness did not include amounts borrowed by the Rigases and the Managed Entities under the co-borrowing arrangements, which omission resulted in an understatement of Adelphia's total indebtedness of at least $1.2 billion.

483. The description of the maturity for various classes of Adelphia's debt that appears on page 4 of the July 2001 Prospectus was materially false and misleading in that it failed to disclose that, once the amounts borrowed by the Rigases and the Managed Entities under co-borrowing arrangements are included in the figures for Adelphia's total consolidated debt, Adelphia was in breach of the restrictions on incurring additional indebtedness contained in its agreements with its bank lenders, thereby enabling those lenders to accelerate the amounts due.

484. On pages 12-13, the July 2001 Prospectus stated that the Rigases at the time effectively controlled the voting power of Adelphia's outstanding common stock. This disclosure was materially false and misleading in that it did not disclose the far more pervasive extent to which the Rigas Family exercised day-to-day control over Adelphia and its cash resources beyond simply its ability to elect the Board of Directors. Nor did the July 2001 Prospectus disclose the degree to which Rigases were exercising that day-to-day control to self-deal.

485. On page 13, the July 2001 Prospectus stated that the outside business activities of the Rigases -- including their engagement in the cable television business outside of Adelphia -- "could present a conflict of interest with Adelphia." In addition, the July 2001 Prospectus noted that "there have been and will continue to be transactions between us and the executive officers or the other entities they own or with which they have affiliations." These disclosures were materially false and misleading in the following respects: First, while noting only that a conflict of interest "could" arise at some point in the future, the prospectus failed to disclose that severe conflicts of interest between the Rigases and Adelphia had already arisen by virtue of the Rigases' repeated pattern of engaging in self-dealing with Adelphia's financial resources. Second, although giving the impression that conflicts and transactions with the Rigas Family, when they do arise, will be brought to the attention of Adelphia's Board of Directors, approved by a majority of disinterested directors, and evaluated for their fairness to Adelphia after disclosure of all material facts as required by § 2.10 of Adelphia's By-Laws, the July 2001 Prospectus did not disclose that, in fact, the conflicts of interest that had already arisen were not properly approved by the Board in accordance with the By-Laws and were not fair to the Company. Third, the disclosure that transactions between Adelphia and its officers' affiliates will continue to occur was inadequate in that it did not disclose (1) the nature of the transactions; (2) the parties involved; (3) the amounts at stake in such transactions; and (4) the impact of such transactions on the operations and financial condition of Adelphia; and (5) the utter lack of internal controls to ensure fairness and prevent self-dealing. Specifically, the July 2001 Prospectus did not disclose

that the Rigases had borrowed substantial amounts under the co-borrowing arrangements which they were unable to repay and for which Adelphia and its subsidiaries were liable, had used the proceeds of those borrowings for their own personal benefit, and had received numerous cash "advances" from Adelphia which they used for their own personal benefit.

XI. No Safe Harbor

486. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false and misleading statements pleaded in this Complaint. None of the allegedly false and misleading statements with regard to Adelphia's financial statements, reported revenues, and earnings pleaded herein was a forward looking statement nor were those statements identified as "forward-looking statements" when made. Nor was it stated that actual results "could differ materially from those projected." Nor did meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statements accompany those statements.

COUNT I

Violations of Section 11 of the Securities Act Against All Defendants (Except the Box Manufacturer Defendants)

487. Except as described in paragraph 488, Huff repeats and realleges the allegations contained in the above paragraphs as if fully set forth herein.

488. For purposes of this claim, Huff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based on solely on claims of strict liability and/or negligence under the Securities Act.

489. This Count is asserted against all Defendants (except the Box Manufacturer Defendants), for violations of Section 11 of the Securities Act, 15 U.S.C. §77*k*, on behalf of Huff, who was damaged thereby.

490. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years after the public offerings in connection with which the violations occurred.

491. As set forth in greater detail above, the April 1999 Registration Statement, the May 1999 Registration Statement and the July 2001 Registration Statement, as well as the prospectuses filed with the SEC and made part of those registration statements, contained untrue statements of material fact and/or omitted to state material facts necessary to make the statements therein not misleading as of when such misleading parts of the registration statements became effective.

492. The Individual Defendants each signed one or more of the materially false and misleading registration statements filed by Adelphia registering securities acquired by Huff, and as such are liable to Huff for damages.

493. The Individual Defendants were each directors of Adelphia at the time one or more of the materially false and misleading registration statements were filed by Adelphia registering securities acquired by Huff, and as such are liable to Huff for damages.

494. Deloitte, Buchanan and Latham consented to being named as having prepared or certified part of one or more of the materially false and misleading registration statements filed by Adelphia registering securities acquired by Huff, and/or having prepared or certified expert reports, opinions and valuations used in connection with one or more of such registration statements as alleged herein, and as such are liable to Huff for damages.

495. The November 1999 Offering Underwriters, the September 2000 Offering Underwriters, the January 2001 Underwriters, the June 2001 Offering Underwriters, the October 2001 Offering Underwriters, including the Bank Defendants, each acted as underwriters with respect to the Adelphia high yield debt securities registered pursuant to and traceable to the May 1999 Registration Statement and/or the July 2001 Registration Statement and acquired by Huff. As such, each of these defendants is liable to Huff for damages.

496. In ignorance of the falsity of the material misrepresentations and omissions in the April 1999 Registration Statement, the May 1999 Registration Statement and the July 2001 Registration Statement, as well as the prospectuses filed with the SEC and made part of those registration statements or of the true facts, Huff purchased Adelphia securities in

reliance upon the representations contained therein. Had Huff known the true facts, Huff would not have purchased the securities at the inflated offering prices.

497. By reason of the foregoing, all Defendants are liable to Huff for damages resulting from their violations of Section 11 of the Securities Act, 15 U.S.C. §77*k*.

COUNT II

Violations of Section 12(a)(2) of the Securities Act Against The Underwriter Defendants

498. Except as described in paragraph 499, Huff repeats and realleges the allegations contained in the paragraphs above as if fully set forth herein.

499. For purposes of this claim, Huff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based on solely on claims of strict liability and/or negligence under the Securities Act.

500. This Count is asserted against the November 1999 Offering Underwriters, the September 2000 Offering Underwriters and the June 2001 Offering Underwriters, excluding the Bank Defendants (the "Section 12 Defendants") for violations of Section 12(a)(2) of the Securities Act, 15 U.S.C. §77*l*(a)(2), on behalf of Huff who was damaged thereby.

501. Plaintiffs have brought this claim within one year of discovery of the violations alleged herein, and within three years of the sales at issue.

502. The Section 12 Defendants, by the use and means of instrumentalities of interstate commerce and of the mails, offered and sold Adelphia high yield debt securities to Huff by means of the Exchange Offer Prospectus, the May 1999 Prospectus, the November 1999 Prospectus, the September 2000 Prospectus, and the June 2001 Prospectus, each of which prospectuses included untrue statements of material fact and/or omitted to state material facts necessary to make the statements made not misleading in light of the circumstances in which they were made.

503. In ignorance of the falsity of the material misrepresentations and omissions in the Exchange Offer Prospectus, the May 1999 Prospectus, the November 1999 Prospectus, the September 2000 Prospectus, and the June 2001 Prospectus or of the true facts, Huff purchased the securities from the Section 12 Defendants in reliance upon the representations contained therein. Had Huff known the true facts, Huff would not have purchased the securities at the inflated offering prices.

504. Upon disclosure of the true facts, the price of the Adelphia debt securities held by Huff dropped, causing Huff to suffer damages in an amount to be proven at trial.

505. By reason of the foregoing, the Section 12 Defendants are liable to Huff for violations of Section 12(a)(2) of the Securities Act.

COUNT III

Controlling Person Liability Against the Individual Defendants Pursuant to Section 15 of the Securities Act

506. Except as described in paragraph 507, Huff repeats and realleges the allegations contained in the above paragraphs as if fully set forth herein.

507. For purposes of this claim, Huff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based on solely on claims of strict liability and/or negligence under the Securities Act.

508. This Count is asserted against the Individual Defendants, for violations of Section 15 of the Securities Act, 15 U.S.C. §77*o*, on behalf of Huff, who was damaged thereby.

509. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years of the public offerings and/or sales of securities complained of.

510. As alleged herein, Adelphia, by reason of the numerous material misstatements and omissions contained in the April 1999 Registration Statement, the May 1999 Registration Statement, the July 2001 Registration Statement, the Exchange Offer Prospectus, the May 1999 Prospectus, the November 1999 Prospectus, the September 2000 Prospectus, the June 2001 Prospectus, the July 2001 Propectus and/or the October 2001 Prospectus used in connection with

the offer and sale of its debt securities as alleged herein, violated Section 11 of the Securities Act.

511. Furthermore, as alleged herein, Adelphia, by reason of the numerous material misstatements and omissions contained in the Exchange Offer Prospectus, the May 1999 Prospectus, the November 1999 Prospectus, the September 2000 Prospectus, the June 2001 Prospectus, the July 2001 Propectus and/or the October 2001 Prospectus used in connection with the offer and sale of its debt securities as alleged herein, violated Section 12(a)(2) of the Securities Act.

512. The Individual Defendants, by virtue of their positions within Adelphia, their stock ownership and their specific acts as described herein, were, at the time of the wrongs alleged herein, controlling persons of Adelphia within the meaning of Section 15 of the Securities Act.

513. The Individual Defendants had the power, influence and authority to direct or cause the direction of the management and policies of Adelphia, and, therefore, to cause or to prevent the wrongful conduct and practices complained of herein, and in fact, directed and caused, in whole or in material part, such management and policies of Adelphia, so as to cause, and to fail to prevent, the wrongful conduct alleged herein.

514. As a direct and proximate result of the Individual Defendants' wrongful conduct, Huff was damaged in connection with its purchase of Adelphia debt securities.

515. By reason of the conduct alleged in Counts I and II, the Individual Defendants are liable jointly and severally and to the same extent as Adelphia for the wrongful conduct alleged herein, and are liable to Huff for the substantial damages which it suffered in connection with its purchases of Adelphia bonds at artificially inflated prices as a result of Adelphia's violations of the Securities Act.

COUNT IV

Against the Individual Defendants, Deloitte and Buchanan for Violations of Section 18 of the Exchange Act

516. Except as described in paragraph 517, Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

517. For purposes of this claim, Huff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based on solely on claims of strict liability and/or negligence under Section 18 of the Securities Exchange Act.

518. This Count is asserted against the Individual Defendants, Deloitte and Buchanan (collectively, the Section 18 Defendants), for violations of Section 18 of the Exchange Act, 15 U.S.C. §78*r*, on behalf of Huff who was damaged thereby.

519. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years of the accrual of this cause of action.

520. As alleged herein, the Section 18 Defendants made or caused to be made statements in documents filed with the SEC pursuant to the rules or regulations of the Exchange Act or undertakings contained in registration statements as provided in subsection (d) of section 15 of the Exchange Act, which statements were, at the time and in light of the circumstances under which made, false or misleading with respect to material facts.

521. Huff actually read, reviewed and relied on the false and materially misleading statements contained in these documents in making the decision to purchase Adelphia securities.

522. In ignorance of the falsity of the Section 18 Defendants' statements or of the true facts, Huff purchased Adelphia debt securities in actual, eyeball reliance upon the Section 18 Defendants' representations.

523. The Section 18 Defendants' materially false or misleading statements artificially inflated the price of Adelphia securities.

524. Had it known the true facts, Huff would not have purchased the Adelphia debt securities and/or would not have purchased them at the inflated price.

525. Upon disclosure of the true facts, the price of the Adelphia debt securities purchased by Huff dropped, and Huff suffered damages in an amount to be proven at trial.

526. By reason of the foregoing, the Section 18 Defendants are liable to Huff for violations of Section 18 of the Exchange Act, 15 U.S.C. §78*r*.

COUNT V

Against the Individual Defendants for Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

527. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 above as if fully set forth herein.

528. This Count is asserted against the Individual Defendants, for violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder, on behalf of Huff, who was damaged thereby.

529. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years of the violations alleged herein.

530. As alleged herein, the Individual Defendants, individually and in concert, directly and indirectly, by the use and means of instrumentalities of interstate commerce and of the mails, engaged and participated in a continuous course of conduct to artificially inflate the reported financial value of Adelphia and to conceal its true financial condition. Such defendants employed devices, schemes, and artifices to defraud and engaged in acts, practices, and a course of conduct that included the making of, or participation in the making of, untrue and misleading statements of material facts and omitting to state material facts necessary in order

to make the statements made about Adelphia not misleading.

531. The Individual Defendants knew or recklessly disregarded that Adelphia's financial statements for the years 1998, 1999, 2000 and 2001 as reported in registration statements, prospectuses and filings with the SEC, and disseminated to the investing public, were materially overstated, failed to disclose material liabilities and were not prepared and presented in accordance with GAAP. In addition, those defendants knew or recklessly disregarded that the registration statements, prospectuses and filings with the SEC complained of were materially false and misleading for the reasons alleged herein.

532. The Individual Defendants, as directors and officers of Adelphia, are liable as direct participants in the wrongs complained of herein. Through their positions of control and authority as officers and directors of Adelphia, the Individual Defendants were able to and did control the content of the public statements disseminated by Adelphia. With knowledge of the falsity and misleading nature of the statements contained therein and in reckless disregard of the truth as pertains to those statements, Adelphia and the Individual Defendants caused the heretofore complained of public statements to contain material misstatements and omissions of material facts as alleged herein.

533. The misrepresentations and omissions of the Individual Defendants were intentional or reckless and done for the purposes of enriching themselves, concealing Adelphia's true operating and financial condition from Plaintiffs and the investing public, and

inducing Plaintiffs to purchase Adelphia securities at artificially high prices.

534. The Individual Defendants acted with scienter, in that they either had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and disclose the true facts, even though such facts were available to them. The Individual Defendants were directors, officers, and among the senior management of Adelphia, and, therefore, were directly responsible for false and misleading statements and omissions disseminated to the public through financial statements, press releases, news reports, and filings with the SEC.

535. Rigas Family members John Rigas, Timothy Rigas, Michael Rigas, James Rigas and Peter Venetis used their high-level positions in and effective control over Adelphia to orchestrate the Rigas Family's self-interested transactions with Adelphia, directly benefited from those transactions, and actively participated in the scheme to cover up those transactions by means of materially false and misleading disclosures in Adelphia's public filings. Given their positions in Adelphia and personal involvement in many of the acts of self-dealing discussed in this complaint, the Individual Defendants knew that the Rigas Family was perpetrating such acts of self-dealing upon Adelphia and that material information about such conduct was being withheld from investors.

536. Defendants had the opportunity and motive to commit the wrongful acts alleged herein. Each of the

Individual Defendants, by virtue of his position as a senior executive and/or director of Adelphia, controlled the reports, press releases, public filings, communications with analysts and other statements issued by Adelphia. Thus, each Individual Defendant controlled the public dissemination of the false and misleading statements to the investing public.

537. The Individual Defendants were motivated to conceal the true extent of the Rigas Family's insider dealings with Adelphia because disclosure of such conduct to the investing public would likely result in reduced investment in and liquidity for Adelphia, which in turn would deprive Adelphia of the ability to continue to provide funds for the Rigas Family's personal use, and deprive them of the continued benefits of their unlawful conduct.

538. As a result of the deceptive practices, common schemes and artifices, and false and misleading statements and omissions alleged herein, the prices of Adelphia securities were artificially inflated. In ignorance of the false and misleading statements, the material omissions, and the deceptive and manipulative devices and contrivances employed by the Individual Defendants, Huffs relied on the statements complained of herein in purchasing Adelphia securities. Had Huff known the truth, it would not have purchased the bonds or would not have purchased them at the artificially inflated prices that it actually paid.

539. Upon disclosure of the true facts, the price of Adelphia debt securities dropped precipitously, and Huff suffered damages in an amount to be proven at trial.

540. By virtue of the foregoing, the Individual Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud and deceit upon Huff in connection with its purchases of Adelphia debt securities.

COUNT VI

Against the Individual Defendants Pursuant to Section 20(a) of the Exchange Act

541. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 above as if fully set forth herein.

542. The Individual Defendants, by virtue of their positions within Adelphia, their stock ownership and their specific acts as described herein, were, at the time of the wrongs alleged herein, controlling persons of Adelphia within the meaning of Section 20(a) of the Exchange Act.

543. The Individual Defendants had the power, influence and authority to direct or cause the direction of the management and policies of Adelphia, and, therefore, to cause or to prevent the wrongful conduct and practices complained of herein, and in fact, directed and caused, in whole or in material part, such management and policies of the Company, so as to

cause, and to fail to prevent, the wrongful conduct alleged herein.

544. As a direct and proximate result of the Individual Defendants' wrongful conduct, Huff was damaged in connection with its purchase of Adelphia debt securities.

545. By reason of the conduct alleged above, the Individual Defendants are liable jointly and severally for the wrongful conduct alleged herein, and are liable to Huff for the substantial damages which it suffered in connection with its purchases of Adelphia debt securities at artificially inflated prices as a result of Adelphia's violations of the Exchange Act.

COUNT VII

Against Deloitte for Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

546. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 above as if fully set forth herein.

547. This Count is asserted against Deloitte for violations of Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5, promulgated thereunder, on behalf of Huff, who was damaged thereby.

548. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years of the violations alleged herein.

549. As alleged herein, Deloitte, individually and in concert with Adelphia and the Individual Defendants, directly and indirectly, by the use and means of instrumentalities of interstate commerce and of the mails, knowingly or recklessly engaged and participated in a continuous course of conduct to conceal adverse material information about Adelphia, including its true financial position, as specified herein. Deloitte knowingly or recklessly employed devices, schemes, and artifices to defraud Huff while in possession of material, adverse non-public information, and engaged in acts, practices, and a course of conduct that included the knowing and reckless making of, or participation in the making of, untrue and misleading statements of material facts and omitting to state material facts necessary in order to make the statements made about Adelphia not misleading.

550. Deloitte acted with scienter in that it knew or recklessly disregarded that its statements in the public documents and statements issued or disseminated by in the name of Adelphia were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws.

551. Deloitte had actual knowledge of the amount of the Managed Entities' borrowings under the co-borrowing arrangements, that the Rigases had used the proceeds of those borrowings to purchase Adelphia securities and other assets for their own benefit, that those amounts had improperly been excluded from the

calculation of Adelphia's total consolidated debt since May 31, 1999, that the Rigases were engaging in a pattern of egregious self-dealing with respect to Adelphia's financial resources, and that the Rigases lacked the ability to repay their borrowings, leaving Adelphia to foot the bill. Indeed, Deloitte performed auditing and other accounting functions for Adelphia and the Rigas Entities/Managed Entities, meaning that Deloitte saw every transaction from both sides and knew what co-borrowing amounts had been borrowed or allocated to Adelphia subsidiaries or Rigas Entities, respectively.

552. Deloitte was aware of and knowingly acquiesced in the Rigas Defendants' desire to conceal the true amount of Adelphia's liabilities under the Co-Borrowing Facilities from the public. Deloitte had express conversations with the Rigas Defendants during its audit regarding what disclosures, if any, should be included in Adelphia's financial statements about the amounts that had been borrowed under the Co-Borrowing Facilities. During these conversations, Deloitte agreed with the Rigas Defendants that none of the co-borrowing debt that had been "allocated" to the Rigas Entities or Managed Entities had to be disclosed in the Company's financial statements. Beginning with at least the audit for fiscal year 2000, Deloitte told the Rigas Defendants that Adelphia should include in a footnote the total amount of credit available under the Co-Borrowing Facilities, as well as the total amount that had been borrowed by the Rigas Entities. However, when the Rigas Defendants objected, Deloitte acquiesced in their desire to conceal this information, despite its material nature and the requirement that it be disclosed under GAAP.

553. The Wall Street Journal also reported on June 10, 2002 that Deloitte had actual knowledge of the Rigas Family's self-dealing -- the co-borrowing facilities, the Rigases' use of loan proceeds to buy Adelphia stock, related-party transactions and the Rigas Family's abuse of the CMS -- yet reportedly never informed the Board's Audit Committee of these matters, and never provided Adelphia with a management letter (which auditors routinely provide at the end of the year to suggest ways for the company to make improvements).

554. Alternatively, Deloitte recklessly disregarded the false and materially misleading statements in Adelphia's financial statements. Deloitte audited Adelphia's financial statements for the years 1998, 1999, and 2000 as a purportedly independent auditor. Given its complete access to the personnel, financial records and tax returns of Adelphia, its subsidiaries, the Managed Entities and the Rigas Entities, as well as the extraordinarily frequent occurrence of the related-party transactions and extensive misconduct described above, there can be no question that Deloitte had to be aware of the material misstatements, inaccuracies and omissions contained in Adelphia's consolidated balance sheets and financial statements. In fact, Deloitte's audits were so deficient in terms of their lack of GAAS compliance that the only conclusion one can reach is that Deloitte intentionally or, at the very least, recklessly, abdicated its auditing responsibilities.

555. Deloitte's failure to require revision of Adelphia's financial statements to disclose all material information and accurately reflect Adelphia's true financial condition and results could only have resulted

from a decision on its part to intentionally conceal the truth from Huff and other Adelphia investors, and/or from its knowing or reckless failure to conduct its audit in accordance with GAAS. The magnitude of the misstatements and omissions in Adelphia's financial statements is truly stunning -- the financial statements concealed over $3 billion of off-balance sheet debt from investors and overstated shareholders' equity by a similar magnitude. Misrepresentations as serious as these leave no question that Deloitte conducted its audit with willful blindness or, at the very least, recklessly failed to perform its audit in accordance with GAAS.

556. Given what Deloitte knew and the information to which it had access, the deficiencies in the disclosure of the co-borrowing arrangements in Adelphia's financial statements had to be patently obvious to Deloitte. By contrast, a diligent investor who reads that disclosure would have no idea (1) that any amounts had been borrowed under the co-borrowing facilities; (2) that entities controlled by the Rigases borrowed the funds; and (3) that those borrowings were not included in the debt figures that appear elsewhere in the financial statements. The purpose of financial statements is to give investors an accurate picture of a company's financial condition at a given point in time. A person reading the co-borrowing disclosure had no idea what Adelphia had actually borrowed or what amount of credit remained available under the facilities. Deloitte's acquiescence in this patently inadequate disclosure was an egregious breach of its professional duty.

557. Moreover, Adelphia presented several prominent "red flags" that should have caused Deloitte

to view the Company as "high risk" and ratchet up the intensity of its audits. The Rigases totally dominated Adelphia, and frequently arranged related party transactions. Adelphia's CMS constituted the very antithesis of reasonable internal corporate controls. Cash flowed freely among Adelphia's subsidiaries, Rigas-owned entities, and the pockets of the Rigases themselves. The existence of this system would have been apparent to any auditor who simply tried to verify balances in Adelphia bank accounts. Indeed, the internal control deficiencies were so great that they undermined the validity of the financial numbers being generated by Adelphia's management. The true facts concerning what was happening at Adelphia were simply too prominent for an accounting firm as reputedly competent as Deloitte to have ignored, if it were conducting its audit properly.

558. Deloitte also had the opportunity and motive to commit the wrongful acts alleged herein. Deloitte had opportunity when it conducted audits and gave its auditors' opinions. Deloitte's motive was to secure and maintain Adelphia's business, as well as other business from the Rigases besides the auditing work, such as tax, consulting and other accounting work. In particular, Deloitte was motivated by a desire to continue to perform accounting services for the other Rigas Entities. These services were a source of revenue to Deloitte that far exceeded the funds it earned from performing audit services for Adelphia. Moreover, because the Rigas Entities are not publicly traded, the Rigases could terminate Deloitte as accountant for those entities, keep Deloitte as accountant for Adelphia, and not have to disclose the existence of a significant difference with its auditors if Deloitte threatened to withhold a clean audit opinion.

Consequently, the prospect of losing this work gave Deloitte a motive to acquiesce in the Rigases' misleading financial statements, and provide clean audit opinions.

559. This explains the incidents, alleged above, in which Deloitte backed down in the face of the Rigases' objections to its half-hearted suggestion that Adelphia disclose the amounts borrowed by the Managed Entities. Deloitte had a clear motive not to dispute the Rigases on this point; had Deloitte not acquiesced, the Rigases could have taken the Rigas Entities' work away from Deloitte without incurring any negative consequences. Keeping that work was a concrete benefit that gave Deloitte sufficient motive to commit fraud.

560. As a result of the deceptive practices, common schemes and artifices, and false and misleading statements and omissions alleged herein, the prices of Adelphia securities were artificially inflated.

561. In ignorance of the false and misleading statements, the material omissions, and the deceptive and manipulative devices and contrivances employed by Deloitte, Huff relied on the statements complained of herein in purchasing Adelphia securities. Had Huff known the truth, it would not have purchased the bonds or would not have purchased them at the artificially inflated prices that were paid.

562. When the truth was disclosed, the price of Adelphia bonds dropped precipitously, and Huff suffered damages in an amount to be proven at trial.

563. By virtue of the foregoing, Deloitte has violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud and deceit upon Huff in connection with their purchases of Adelphia bonds.

COUNT VII

Against Salomon, Credit Suisse, BMO and Banc of America for Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

564. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 above as if fully set forth herein.

565. This Count is asserted against Salomon, Credit Suisse, BMO and Banc of America (the "Section 10 Underwriter Defendants") for violations of Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5, promulgated thereunder, on behalf of Huff, who was damaged thereby.

566. Huff has brought this claim within one year of discovery of the violations alleged herein, and within three years of the violations alleged herein.

567. As alleged herein, the Section 10 Underwriter Defendants, individually and in concert with Adelphia, the Individual Defendants and the Section 10 Bank Defendants (defined below), directly and indirectly, by the use and means of instrumentalities of interstate commerce and of the mails, knowingly or recklessly engaged and participated in a continuous course of conduct to conceal adverse material information about Adelphia, including its true financial position, as specified herein. The Section 10 Underwriter Defendants knowingly or recklessly employed devices, schemes, and artifices to defraud Huff while in possession of material, adverse non-public information, and engaged in acts, practices, and a course of conduct that included the knowing and reckless making of, or participation in the making of, untrue and misleading statements of material facts and omitting to state material facts necessary in order to make the statements made about Adelphia not misleading.

568. The Section 10 Underwriter Defendants acted with scienter in that they knew or recklessly disregarded that the public documents and statements issued or disseminated by them or in the name of Adelphia were materially false and misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. By virtue of their failure to check the accuracy of information which they had a duty to monitor, and their receipt of information reflecting the true facts regarding Adelphia, their control over, and/or receipt and/or modification of Adelphia's

allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Adelphia, the Section 10 Underwriter Defendants knowingly or recklessly made material representations or omissions, knowingly or recklessly employed devices, schemes and artifices to defraud, and knowingly or recklessly engaged in acts, practices and courses of conduct which operated as a fraud and deceit upon Huff. The ongoing fraudulent scheme described in this Complaint could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the Section 10 Underwriter Defendants.

569. The Section 10 Underwriter Defendants conducted extensive due diligence of Adelphia in connection with its public offerings of debt securities. Moreover, each of the Section 10 Underwriter Defendants had complete access to Adelphia's internal records through the Section 10 Bank Defendants. At all relevant times, the Section 10 Underwriter Defendants and their respective Section 10 Bank Defendant affiliates shared all material information and due diligence regarding Adelphia, the Rigas Entities and the Rigas Family. The Section 10 Underwriter Defendants and the Section 10 Bank Defendants (like the other Underwriter Defendants and Bank Defendants) did not properly maintain the "information walls" that would prohibit the sharing of such information. To the contrary, the Section 10 Underwriter Defendants and the Section 10 Bank Defendants needed to and, in fact, did share information to maximize their ability to garner additional fees. Thus, uncovering the fraud would have been as simple as requesting from Adelphia -- or their

Bank Defendant affiliates -- the amounts outstanding under Adelphia's credit facilities and comparing those amounts with Adelphia's SEC filings. The Section 10 Underwriter Defendants either obtained this information from their affiliated lenders (which would have provided actual notice of the fraud) or they recklessly failed to do so.

570. Given their access to inside information, the Section 10 Underwriter Defendants knew about, or recklessly disregarded, the facts concerning the Rigases' acts of self-dealing and their concealment of those acts from the investing public. Moreover, these Defendants knew, or recklessly disregarded, the fact that Adelphia's financial statements for the above years -- and the registration statements and prospectuses incorporating the financial statements by reference -- repeatedly understated the amount of Adelphia's total consolidated debt by failing to include the amount of the Managed Entities' borrowings under the co-borrowing facilities and failed to disclose all material information concerning those facilities.

571. Given the extraordinarily frequent occurrence of the related-party transactions and extensive misconduct described above, the Section 10 Underwriter Defendants simply could not have been unaware of the material misstatements, inaccuracies and omissions contained in the registration statements and prospectuses used in connection with the November 1999 Offering, the September 2000 Offering, the January 2001 Offering, the June 2001 Offering and the October 2001 Offering. Consequently, the Section 10 Underwriter Defendants' failure to disclose all material information could only have resulted from their willful failure to conduct proper due diligence, or

from a decision on their part to intentionally conceal the truth from Huff and other Adelphia investors.

572. Many of the false or misleading representations contained in the disclosure documents drafted by or on behalf of the Section 10 Underwriter Defendants were plainly contradicted by source documents in the possession of Adelphia or the Rigases. A simple example concerned the Rigases' source of funds for their purchases of Adelphia securities. As revealed by Adelphia's present Board of Directors in the May 2002 8-K, the bookkeeping entries Adelphia made to record these transactions plainly revealed that no cash had changed hands, and that the Rigases had "paid" for the securities with proceeds from the co-borrowing arrangements.

573. Nor is this the only example. While describing in minute detail the restriction on indebtedness covenants contained in Adelphia's bond indentures, the prospectuses and registration statements for Adelphia's bond offerings in 2000 and 2001 failed to disclose that Adelphia had already breached those covenants. As part of their due diligence, the underwriters were required to ascertain whether Adelphia was in compliance with the bond covenants, and to review the compliance certificates that Adelphia's management was supposed to prepare -- but in many cases did not. Had the underwriters reviewed the underlying documents concerning the co-borrowing facilities, they would have learned that Adelphia was liable for amounts borrowed by the Managed Entities under those facilities, and that, when these borrowings were taken into consideration, Adelphia's total debt exceeded 8.75 x EBITDA -- the covenants' debt ratio limitation.

574. The Section 10 Underwriter Defendants' preparation of disclosure documents containing representations that were blatantly contradicted by source documents gives rise to a strong inference of recklessness. These defendants egregiously refused to see the truth that was right under their noses.

575. The Section 10 Underwriter Defendants had the opportunity and motive to commit the wrongful acts alleged herein. Each of these defendants exercised control over the contents and participated in the drafting of the prospectuses and registration statements for each of the public offerings at issue in this Complaint.

576. The motive for the Section 10 Underwriter Defendants -- the concrete benefit they stood to gain from deceiving the public -- was likewise straightforward. These defendants wanted to keep Adelphia's underwriting business, especially in light of Adelphia's frequent solicitations of the capital markets. These defendants knew that disclosure of adverse information against the wishes of John Rigas and the other members of the Rigas Family could result in the loss of lucrative that business. The Section 10 Underwriter Defendants focused significantly more effort on generating fee income than ensuring appropriate disclosure of the Co-Borrowing Facilities.

577. As the chart below indicates, between February 1997 and January 2002, the Section 10 Underwriter Defendants collectively served as lead underwriters or underwriters on no less than eleven public offerings of Adelphia equity and debt securities,

which generated a total of approximately $187 million in underwriter compensation.

Offering	Principal Amount of Securities	Lead Underwriter(s)	Underwriter Compensation
February 1997 9 7/8% Notes	$350,000,000	Salomon Smith Barney	$2,740,500
August 1998 Class A Common Stock	4,100,000 shares $131,200,000	Salomon Smith Barney; Goldman, Sachs & Co.; NationsBanc Montgomery Securities LLC	$5,904,000
April 1999 Class A Common Stock	8,000,000 shares $494,000,000	Salomon Smith Barney; Goldman, Sachs & Co.	$4,501,000
April 1999 7 7/8% Notes	$350,000,000	Salomon Smith Barney; Chase Securities, Inc.	$7,900,000

Offering	Principal Amount of Securities	Lead Underwriter(s)	Underwriter Compensation
April 1999 5 1/2% Series D Convertible Preferred Stock	2,500,000 shares $500,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	$15,050,000
October 1999 Class A Common Stock	6,000,000 shares $342,000,000	Salomon Smith Barney; Credit Suisse First Boston; Goldman, Sachs & Co.	$12,000,000
November 1999 9 3/8% Notes	$500,000,000	Salomon Smith Barney; Credit Suisse First Boston; BMO	$3,980,000
September 2000 10 7/8% Notes	$750,000,000	Salomon Smith Barney; Banc of America	$11,250,000

Offering	Principal Amount of Securities	Lead Underwriter(s)	Underwriter Compensation
January 2001 6% Convertible Subordinated Notes	$750,000,000	Salomon Smith Barney; Banc of America	$20,625,000
January 2001 Class A Common Stock	17,000,000 shares $760,750,000	Salomon Smith Barney; Banc of America	$30,430,000
April 2001 3.25% Convertible Subordinated Notes	$500,000,000	Salomon Smith Barney; Banc of America; BMO	$11,250,000
June 2001 10 ¼% Notes	$1,000,000,000	Salomon Smith Barney; Banc of America; BMO	$20,000,000
October 2001 10 1/4% Notes	$500,000,000	Credit Suisse First Boston; BMO	$14,195,000

Offering	Principal Amount of Securities	Lead Underwriter(s)	Underwriter Compensation
January 2002 7.5% Series F Mandatory Convertible Preferred Stock	20,000,000 shares $500,000,000	Salomon Smith Barney	$15,000,000
January 2002 Class A Common Stock	40,000,000 shares $1,020,000,000	Salomon Smith Barney	$12,000,000
Total:	$8,447,950,000		$186,825,500

578. After each of these offerings, the Section 10 Underwriter Defendants knew that Adelphia would have to return to the market to quench its constant thirst for liquidity. They also knew that the Rigas Defendants would simply use different underwriters if the four of them did not agree to deceive investors. The prospect of losing the Company's incredibly lucrative underwriting business is ample evidence of motive to commit fraud.

579. The Section 10 Underwriter Defendants had the additional motive to make sure that their respective parents and/or affiliates, the Section 10 Bank Defendants, got paid back the money they had loaned Adelphia under the Company's co-borrowing commercial credit facilities and continued to reap the lucrative banking fees associated with those facilities. The public offerings on which the Section 10 Underwriter Defendants served as underwriters generated a pool of funds that enabled Adelphia to periodically retire a portion of its commercial debt. The Section 10 Underwriter Defendants thus had ample motive for manipulating the public to buy Adelphia securities out of its public offerings.

580. The debt securities solicited by the Section 10 Underwriter Defendants were issued on a structurally subordinated basis to the Co-Borrowing Facilities. Thus, the purchasers of the debt securities -- the parties, like Huff, to whom the Section 10 Underwriter Defendants provided misleading and false information -- would suffer the first losses if Adelphia collapsed under the weight of the undisclosed debt burden and massive fraud. The structurally subordinated debt securities also ensured that the Section 10 Bank

Defendants would have more credit support to ensure repayment of the loans.

581. As a result of the deceptive practices, common schemes and artifices, and false and misleading statements and omissions alleged herein, the prices of Adelphia securities were artificially inflated.

582. In ignorance of the false and misleading statements, the material omissions, and the deceptive and manipulative devices and contrivances employed by the Section 10 Underwriter Defendants, Huff relied on the statements complained of herein in purchasing Adelphia securities. Had Huff known the truth, it would not have purchased the bonds or would not have purchased them at the artificially inflated prices that were paid.

583. When the truth was disclosed, the price of Adelphia bonds dropped precipitously, and Huff suffered damages in an amount to be proven at trial.

584. By virtue of the foregoing, the Section 10 Underwriter Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud and deceit upon Huff in connection with their purchases of Adelphia bonds.

COUNT IX

Against Wachovia, BOA, Bank of Montreal, Citibank, Citicorp and Citigroup for Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

586. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 and 564 through 585 above as if fully set forth herein.

587. This Count is asserted against Wachovia, BOA, Bank of Montreal, Citibank, Citicorp and Citigroup (the "Section 10 Bank Defendants") for violations of Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5, promulgated thereunder, on behalf of Huff, who was damaged thereby.

588. As alleged herein, the Section 10 Bank Defendants, individually and in concert with Adelphia, the Individual Defendants and their Underwriter Defendant affiliates, directly and indirectly, by the use and means of instrumentalities of interstate commerce and of the mails, knowingly or recklessly engaged and participated in a continuous course of conduct to conceal adverse material information about Adelphia, including its true financial position, as specified herein. In violation of Rule 10b-5(a) and (c), the Section 10 Bank Defendants knowingly or recklessly employed devices, schemes, or artifices to defraud Huff, engaged in any acts, practices, or courses of business which operated as a fraud or deceit upon Huff and directly or indirectly employed manipulative or deceptive devices or contrivances.

589. The Section 10 Bank Defendants knowingly employed a fraudulent and manipulative scheme to reduce their own risk exposure at the expense of Adelphia's securities holders, thereby violating Rules 10b-5(a) and (c). Specifically, the Section 10 Bank Defendants, through their Underwriter Defendant affiliates, engineered the issuance and sale of numerous rounds of debt securities in order to increase the capital available to Adelphia to support and/or pay down their credit facilities and generate investment banking fees for their affiliates. In other words, with full access to internal financial documents -- to which investors like Huff had no access -- the Section 10 Bank Defendants were in a unique position to assess the creditworthiness (or lack thereof) of Adelphia and to hedge their lending bets by tapping the resources of unwitting investors through the public markets. Not only did this scheme result in the reduction of the Section 10 Bank Defendants' risk exposure, but it also added to their revenues through the multiple millions of dollars in underwriting fees garnered by their Underwriter Defendant affiliates. In these circumstances, the Section 10 Bank Defendants employed a "manipulative device" within the meaning of Section 10(b) and Rule 10b-5.

590. The Section 10 Bank Defendants acted with scienter. First, the facts pled herein give rise to a strong inference of conscious misbehavior or recklessness on the part of the Section 10 Bank Defendants. These defendants knew or recklessly disregarded that Adelphia's filings with the SEC consistently concealed the true amount of Adelphia's co-borrowing liability. Obviously, the Section 10 Bank Defendants knew the amount owing under the Co-Borrowing Facilities in which they participated. In

addition, since Wachovia and BMO were agents or lenders under all of the Co-Borrowing Facilities, these institutions also knew the outstanding balances of all of Adelphia's bank debt.

591. The Section 10 Bank Defendants also knew or recklessly disregarded the existence of other falsities and material misrepresentations in Adelphia's SEC filings -- knowledge they gained from their intimate relationship with Adelphia and unique degree of access to Adelphia's internal documents. When deciding whether to extend loans or credit facilities to a borrower such as Adelphia, the Section 10 Bank Defendants performed a detailed analysis of the company's credit in order to satisfy itself that the borrower is actually capable of repaying the loan. This credit analysis includes a thorough review of the borrower's financial records in order to evaluate the borrower's assets, actual and contingent liabilities, shareholder's equity, earnings and liquidity. The Section 10 Bank Defendants performed such in-depth credit analyses of Adelphia in connection with the credit facilities they extended to Adelphia and its affiliates, as well as an analysis of the Section 10 Bank Defendants' position in the seniority structure.

592. In addition, before each of the Co-Borrowing Facilities closed, the Bank Defendants participating in each facility obtained summaries, reports and other information relating to the CMS. Thus, the Section 10 Bank Defendants knew of, or recklessly disregarded, the existence of the CMS, the commingling of funds in the CMS, and the fraudulent use by the Rigas Defendants of funds within the CMS. In particular, Wachovia, by virtue of its oversight of the CMS, Highland Holdings accounts and other Rigas Family

accounts that received transfers from the CMS, knew or recklessly disregarded the fraudulent nature of the transfers between Adelphia and Rigas Entities via the CMS.

593. Further, the Section 10 Bank Defendants performed due diligence for themselves in connection with the credit facilities not unlike what underwriters are supposed to do for public investors.

594. In addition, the Section 10 Bank Defendants on a continuing basis closely monitored the financial condition and performance of Adelphia and any of its affiliates who borrowed money from them, and received or had access to extensive non-public information about Adelphia. The purpose of this monitoring was to detect any changes in the financial affairs of the borrowers that could jeopardize the Section 10 Bank Defendants' ability to obtain repayment of their loan. All of the Section 10 Bank Defendants also regularly received compliance certificates from Adelphia evidencing the true amounts outstanding under Adelphia's credit facilities and the status of Adelphia's compliance with its bank and indenture covenants.

595. The Section 10 Bank Defendants performed periodic analyses demonstrating Adelphia's concealment of billions of dollars under the Co-Borrowing Facilities from its sheet. For example, on or about March 29, 2001, Defendant Wachovia performed an analysis of Adelphia's total outstanding "bank debt" at the subsidiary level, as of September 30, 2000, under the two Co-Borrowing Facilities then outstanding -- UCA/HHC and CCH -- and under six other credit facilities then outstanding -- Parnassos,

Chelsea Communications, Adelphia Cable Partners, Harron Communications, Frontiervision and Century-TCI. Wachovia determined that Adelphia's total "bank debt" as of September 30, 2000 was approximately $5.2 billion.

596. Adelphia's public filings for the same period, however, disclosed that the Debtors' bank debt, as of September 30, 2000, was approximately $3.8 billion. Wachovia did not need any "special" access to the Debtors to obtain this information. To the contrary, all of the Section 10 Bank Defendants could have made this calculation based on information readily accessible to them as lenders. Thus, Wachovia's analysis demonstrates that, many, if not all, Section 10 Bank Defendants knew or recklessly disregarded that Adelphia was understating its total bank debt in 2000 by approximately $1.4 billion and that Adelphia's leverage was not being reduced as represented.

597. In addition to the information the Section 10 Bank Defendants received as lenders, these defendants and their Underwriter Defendant affiliates had additional and ample opportunities to learn all material aspects of Adelphia's business and finances. As more fully set forth below, each of the Section 10 Bank Defendants and their Underwriter Defendant affiliates, as many of Adelphia and the Rigas Family's long-time lenders, investment bankers, underwriters, financial analysts, financial advisors and strategic partners, had access to and possession of significant non-public information concerning the financial affairs of Adelphia, the Managed Entities, the other Rigas Entities and the Rigas Family.

598. Moreover, the Underwriter Defendants had a legal obligation to conduct extensive due diligence in connection with the securities offerings they underwrote. As alleged above, the Underwriter Defendants freely shared the information in their possession about Adelphia with their affiliated Bank Defendants.

599. Most of the bank accounts through which the fraudulently obtained and concealed co-borrowing funds flowed -- principally the CMS and the Rigas Family's personal accounts -- were maintained at Defendant Wachovia. In many instances, Wachovia would fund, or otherwise be aware of, massive draw downs by an Adelphia subsidiary under the Co-Borrowing Facilities on the same day that the Rigas Family deposited or transferred significant amounts, which, in some instances, matched the amounts drawn down under a Co-Borrowing Facility the very same day. As such, Wachovia knew or recklessly disregarded Adelphia and the Rigas Defendants' fraudulent conduct.

600. For example, records of Adelphia, BOA and Wachovia reflect that, on July 3, 2000, Highland Prestige, an RFE co-borrower, drew $145 million under the CCH Co-Borrowing Facility. The money was transferred directly from BOA, the administrative agent under the CCH Co-Borrowing Facility, to a Highland Prestige bank account at Wachovia. That same day, Highland Prestige transferred approximately $145 million from the same account to the account of another Rigas Entity (not a co-borrower), which used the funds to acquire shares of Adelphia Class B Common Stock.

601. After May 1999, each of the Section 10 Bank Defendants knew that (i) Adelphia and the Rigas Entities were commingling cash, (ii) Adelphia and its subsidiaries had agreed to be liable for co-borrowing funds drawn by the Rigas Entities and Managed Entities, and (iii) the Rigas Defendants were using the Co-Borrowing Facilities for personal expenses, including, but not limited to, the purchase of securities issued by Adelphia.

602. The Section 10 Bank Defendants also had ample motive and opportunity to commit fraud. The Section 10 Defendants made no meaningful distinction between the Debtors, the Rigas Family, and the Managed Entities. Indeed, they realized that the key to doing business with Adelphia was to satisfy the personal financial whims of the Rigas Family.

603. The Section 10 Bank Defendants engaged in the scheme to defraud Adelphia's investors -- including Huff -- through the public offerings of Adelphia securities by their Underwriter Defendant affiliates in order to (1) reduce their credit risk exposure on their loans to Adelphia, and (2) generate massive investment banking fees for their Underwriter Defendant affiliates. By proceeding in this manner, the Section 10 Bank Defendants could reduce their exposure while continuing to reap the financial rewards of their continued extensions of credit to Adelphia. Additional extensions of financing to Adelphia would increase their revenues related to debt service, and their ability to send their affiliated investment banks to the public markets again and again would ensure both continued risk management and the influx of further substantial underwriting fees. Indeed, the Section 10 Bank Defendants even

permitted loans to Adelphia in excess of their own internal lending limits precisely because they knew they could reduce the risk of default by orchestrating the sale of Adelphia securities to the public through the Underwriter Defendants.

604. Defendants Citigroup and BOA also provided huge margin loans to the Rigas Defendants. The desire for repayment of these loans also provided a strong motive for these defendants to participate in the fraudulent scheme. So long as the Rigas Defendants continued to have access to the proceeds of the Co-Borrowing Facilities, Citigroup and BOA would always have a second, secured source of repayment if the Rigas Family defaulted on the margin loans.

605. All of the materially false, misleading and incomplete statements in the registration statements and prospectuses for public offerings as to which the Section 10 Bank Defendants were statutory underwriters also constitute statements made by these defendants. Accordingly, the Section 10 Bank Defendants share liability for those materially false, misleading and incomplete statements that is coextensive with the liability of their Underwriter Defendant affiliates.

606. As a result of the deceptive practices, common schemes and artifices, and false and misleading statements and omissions alleged herein, the prices of Adelphia securities were artificially inflated.

607. In ignorance of the false and misleading statements, the material omissions, and the deceptive and manipulative devices and contrivances employed

by the Section 10 Bank Defendants, Huff relied on the statements complained of herein in purchasing Adelphia securities. Had Huff known the truth, it would not have purchased the bonds or would not have purchased them at the artificially inflated prices that were paid.

608. When the truth was disclosed, the price of Adelphia bonds dropped precipitously, and Huff suffered damages in an amount to be proven at trial.

609. By virtue of the foregoing, the Section 10 Bank Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud and deceit upon Huff in connection with their purchases of Adelphia bonds.

COUNT X

Against Scientific-American and Motorola for Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder

610. Huff repeats and realleges each and every allegation contained in paragraphs 1 through 486 above as if fully set forth herein.

611. This Count is asserted against Scientific-American and Motorola (the "Box Manufacturer

Defendants") .for violations of Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. §240.10b-5, promulgated thereunder, on behalf of Huff, who was damaged thereby.

612. As alleged herein, the Box Manufacturer Defendants, individually and in concert with Adelphia and the Individual Defendants, directly and indirectly, by the use and means of instrumentalities of interstate commerce and of the mails, knowingly or recklessly engaged and participated in a continuous course of conduct to conceal adverse material information about Adelphia, including its true financial position, as specified herein. In violation of Rule 10b-5(a) and (c), the Box Manufacturer Defendants knowingly or recklessly employed devices, schemes, or artifices to defraud Huff, engaged in any acts, practices, or courses of business which operated as a fraud or deceit upon Huff and directly or indirectly employed manipulative or deceptive devices or contrivances.

613. The Box Manufacturer Defendants knowingly employed a fraudulent and manipulative scheme to reduce their own risk exposure at the expense of Adelphia's securities holders, thereby violating Rules 10b-5(a) and (c). Specifically, the Box Manufacturer Defendants engineered a kickback scheme whereby Adelphia overpaid for digital converter boxes, and the Box Manufacturer Defendants agreed to kick back $26 per box for alleged "marketing support services."

614. These kickbacks served no business purpose other than to enable Adelphia to artificially inflate its reported revenues and EBITDA. Adelphia capitalized the premium payments over the period of the customer

contracts, but booked the kickback payments as immediate income.

615. The Box Manufacturer Defendants acted with scienter. They knew that there was no purpose for such round-tripping of Adelphia's own funds other than to assist Adelphia -- a significant customer for digital converters -- to inflate its financial performance, particularly since neither Scientific-American nor Motorola was interested in the alleged "marketing support" services purportedly offered by Adelphia and had previously declined them.

616. The Box Manufacturer Defendants were motivated to enter into these sham transactions in order to secure commitments from Adelphia to purchase additional digital converter boxes in the future, as well as to secure Adelphia as a customer.

617. As a result of the deceptive practices, common schemes and artifices, and false and misleading statements and omissions alleged herein, the prices of Adelphia securities were artificially inflated.

618. In ignorance of the false and misleading statements, the material omissions, and the deceptive and manipulative devices and contrivances employed by the Box Manufacturer Defendants, Huff relied on the statements complained of herein in purchasing Adelphia securities. Had Huff known the truth, it would not have purchased the bonds or would not have purchased them at the artificially inflated prices that were paid.

619. When the truth was disclosed, the price of Adelphia bonds dropped precipitously, and Huff suffered damages in an amount to be proven at trial.

620. By virtue of the foregoing, the Box Manufacturer Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated as a fraud and deceit upon Huff in connection with their purchases of Adelphia bonds.

PRAYER FOR RELIEF

WHEREFORE, Huff prays for judgment as follows:

1. Awarding Huff recovery of the consideration paid for the Adelphia debt securities (upon Huff's tender of the securities), with interest thereon, as a result of the wrongs alleged in Count II of the Complaint, and pursuant to the remedies provided by Section 12 of the Securities Act;

2. Awarding Huff compensatory damages as a result of the wrongs alleged in Counts I and III - VI of the Complaint;

3. Awarding Huff its costs and expenses in this litigation, including reasonable attorneys' fees and experts' fees and other costs and disbursements; and

4. Awarding Huff such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury for all issues so triable.

Dated: December 12, 2003
Roseland, New Jersey

LOWENSTEIN SANDLER P C
1330 Avenue of the Americas
21st Floor
New York, NY 10019
Tel. 212.262.6700
Fax 212.262.7402

-and-

65 Livingston Avenue
Roseland, New Jersey 07068
Tel. 973.597.2500
Fax 973.597.2400

By: /s/
Lawrence M. Rolnick (LR 0546)
Thomas E. Redburn, Jr. (TR 3902)

Attorneys for Plaintiff
W.R. Huff Asset Management Co., L.L.C.
(except as to claims against Deloitte & Touche LLP, Bank of America, N.A., Latham & Watkins and Buchanan Ingersoll Professional Corporation)

- and -

COHN LIFLAND PEARLMAN
HERRMANN & KNOPF LLP
Park 80 Plaza West-One
Saddle Brook, New Jersey 07663
Tel. 201.845.9600
Fax 201.845.9423

By:/s/ ______________________________
Jeffrey W. Herrmann (JH-5706)

Attorneys for Plaintiff
W.R. Huff Asset Management Co., L.L.C. (with respect to claims against Deloitte & Touche LLP, Bank of America, N.A., Latham & Watkins and Buchanan Ingersoll Professional Corporation)